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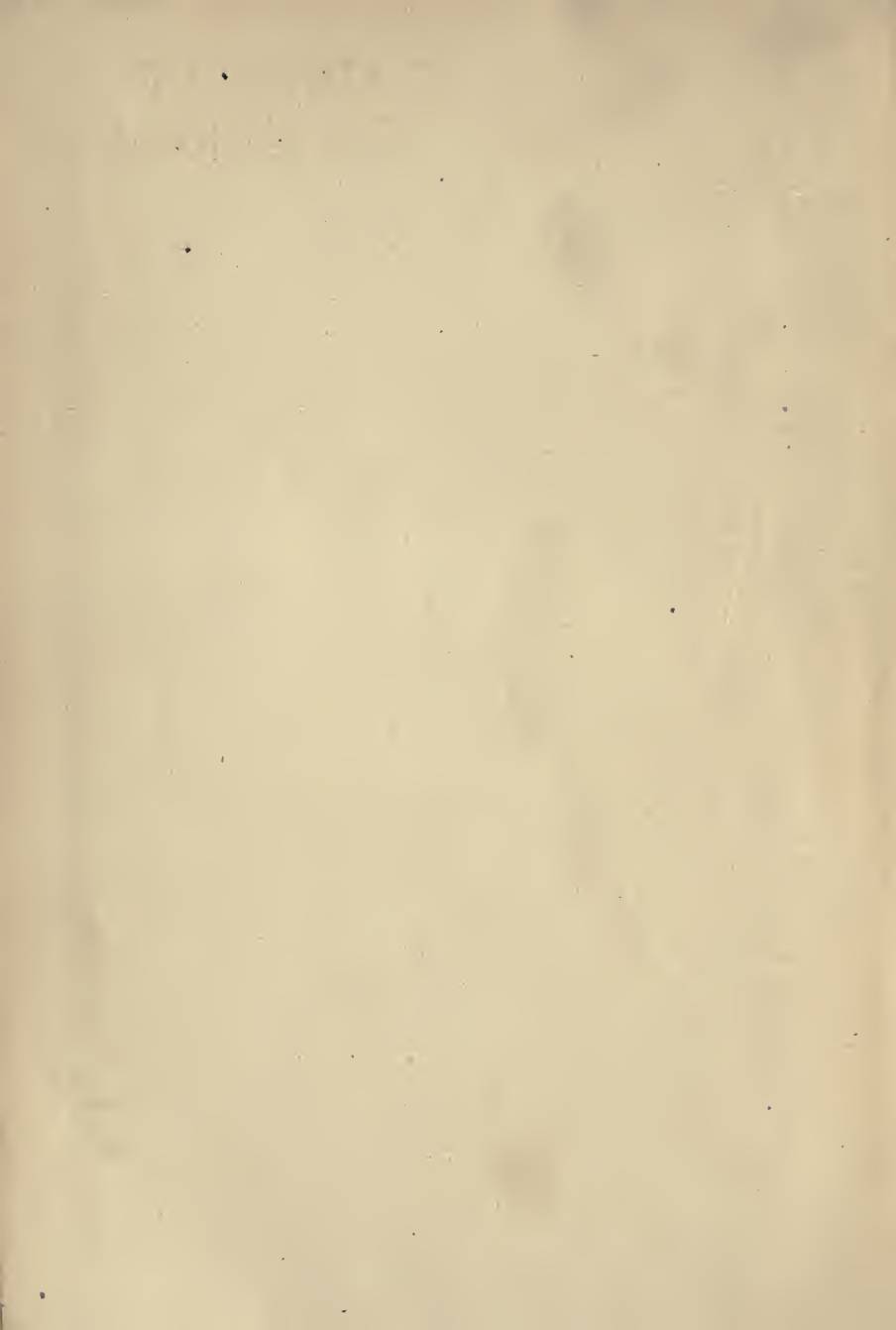
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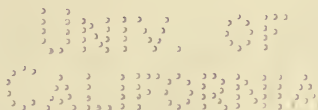
CIVIL GOVERNMENT

AS DEVELOPED IN THE STATES
AND IN THE UNITED STATES

BY

J. R. Flickinger
" R. FLICKINGER, M.A., Sc.D.

PRINCIPAL OF THE CENTRAL STATE NORMAL SCHOOL, LOCK HAVEN, PENNA.



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TO
C. R. F.
AND
J. F.

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PREFACE

THE aim of this book is to give a succinct account of the origin and development of local systems of government in the United States, and to trace the evolution of the National government from these local units. It is not written for the learned, but for the learners. The author has kept the limitations of his prospective readers constantly in mind, and has therefore eliminated much interesting and probably valuable material, which nevertheless appeared to be extraneous and not illuminating to the theme. The magnitude of the task was due to the fact that great condensation was absolutely necessary in order that the limits of an ordinary text-book might not be exceeded. How much wisdom has been shown in these discriminations must be left to the judgment of the critics. Heretofore, text-book writers on civil government have placed the emphasis on the National, rather than on the local, side of our political life, as if the growth of such ideas had been from above downward. This method has given students—the future citizens—a false conception of the genesis of all legitimate governments. Freeman has shown that the logical and historical order of political development has been from below upward, and it is certainly a matter of supreme importance, especially in a republic, that the young citizen should grasp this idea, and that he should realize the momentous importance of the principle. When this point of view is understood, it becomes apparent that the method of treatment had to be largely historical. Therefore no apology is offered for what may appear to some to be an undue amount of historical data.

In the presentation of the three types of local government as

they appear and recur in the United States, the author has drawn freely from Howard's *Local Constitutional History of the United States*, of which fact this public acknowledgment is made. As the forms of local government are constantly undergoing changes and modifications in the various states, the text may not always be accurate in the minute details, but an effort has been made to distinguish clearly the characteristic functions. In noting the variations of type, the teacher will find the opportunity for cultivating the discriminating faculties of his students. By supplementing the text with an outline of the home government, the best results can be obtained; and then too the relations of the community to the larger world around will become apparent, and the universal brotherhood of man can be taught as an ethical truth. The treatment being National in its scope, the work should be available as a text-book in every state of the Union.

The thanks of the author are due and are hereby tendered to the several critical scholars who kindly read the manuscript, and who gave him the benefit of their judicious criticisms.

The author is under many obligations to Dr. John W. Perrin, professor of history in Adelbert College, of the Western Reserve University, Cleveland, for much valuable aid; and his careful reading of the manuscript has greatly increased the accuracy of the text.

Where students have had a course in English history, chapters II and III may be omitted, and in this way the book can be covered in a briefer time without losing sight of the ultimate aim. For the sake of clearness, several principles and facts are repeated, even at the risk of making the book prosaic. It is believed that actual teachers will consider this an advantage.

The century just closed has been remarkable in many ways, but in none more than in the impetus it has given to the development of the idea of the sovereignty of man. The United States, more than any other nation, exemplifies in its government this great principle. The "local government" of our country is its natural nursery: therefore our schools should constantly magnify these local units and impress the coming citizens with an earnest effort to maintain them as organized communities.

The relation of the state to the Nation, their inter-relation, and the relation of the citizen to his state and to the Nation respectively, are stated with more minuteness than is usual in text-books, but it is believed that clearness in these particulars is necessary before the doctrine of citizenship can be properly understood. The citizen is directly interested in the government of his local area, but, generally speaking, the National government affects his happiness in a very limited manner. The treatment of the government of the United States follows that of the states, and an effort is made to show that the growth of nationality is a natural evolution—the crowning feature of the entire fabric. If this brief summary of the fundamental principles of the political life of our people succeeds in inspiring, among the youth of the land, higher ideals of citizenship and a deeper reverence for our governmental institutions, the author will feel that his labor has not been in vain.

J. R. F.

March 1st, 1901

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CIVIL GOVERNMENT

PART I

DEFINITION OF POLITICAL TERMS; ORIGIN OF GOVERNMENT AND DEVELOPMENT OF LIBERTY

CHAPTER I

KINDS OF GOVERNMENT

Introduction.—We believe in an overruling Deity who directs the affairs of men in harmony with His divine will. The earth as a product of His creative power was made the abode of man. Whether the Almighty by one creative act of omnipotence made the earth and all it contains, or whether it exists to-day as the result of a divine process of evolution, it matters not to the student of civil government who is seeking after a knowledge of existent conditions. We do know, however, that man is the greatest of all God's creatures, and that he has capacities that mark him as the pre-destined ruler of our earth-world. He has emotional, intellectual, and volitional attributes. He has aspirations to better his inherited condition, hence we find the human family constantly striving after ideals of its own making. If the ideals are high, every generation will show progress toward a higher civilization. History records these civilizing tendencies as manifested during the many ages that are behind us. Nations have risen,

progressed, and died, but all have left an impress on the race. Some have been more influential than others; and not all have shown a well rounded or consistent development. Those nations that have been most considerate of the rights of man as a member of society, have been the most potent factors in elevating him in the scale of civilization. A consideration of these rights involves a study of society in the abstract.

Society. — Man's dominion over every other creature and over all the earth has never been questioned since the dawn of history. This instinct of superiority, whether due to heredity or environment, is the controlling factor in human life. With the creation of the family, the social life of man began, and society became a necessity. Nations and states are only larger expressions of the primary society. But society has its responsibilities, because men are selfish and love dominion not only over inferior animals, but over one another. During the childhood of the race the strongest man physically became the chief of the clan or tribe, and great physical strength thus became the badge of authority or government. This, of course, was all wrong, for, if allowed to continue, the weak would be deprived of all their rights and all the fruits of their toil. To remedy these various evils of primitive society (which have only been hinted at), some organization of the individuals composing it became necessary. We speak here of the individual, because the individual is the unit of society, and the state or government, if logically constituted, is his servant, not his master. The people are the state, and the government is its instrument. We are now prepared to understand some fundamental terms which illustrate the evolution of the primitive society.

State. — “A state is an organized society or community of persons living within certain limits of territory, and aiming to secure the prevalence of justice by self-imposed law.”

Government. — The government is therefore the instrument created by the state to secure the prevalence of justice for all the members of the state, and to manage its affairs with other states. The government of a state is subject to change, and the people, who are the state, can mold it as they will.

Sovereign State. — Woolsey,¹ in discussing the State, says: "By sovereignty we intend the uncontrolled exclusive exercise of the powers of the state; that is, both of the power of entering into relations with other states, and of the power of governing its own subjects. This power is supreme within a certain territory, and supreme over its own subjects wherever no other sovereignty has jurisdiction." A state, therefore, that exercises these sovereign rights is a sovereign state. Independence is thus an attribute of sovereignty.

Functions of Government. — Government has been defined both as the organ or machinery of the state, and also as "control"; and civil government, as the control by law of the citizens of a state. This control involves the exercise of three fundamental functions: first, the law-making function; second, the law-interpreting function; third, the law-administering function.

What is a Law? — A law has been defined as the "expression of the sovereign will of the state." Blackstone calls it "a rule of action prescribed by a superior power." He also quotes with approval Justinian's declaration that the whole doctrine of the law can be reduced to three general principles: "Live honestly, hurt nobody, and render to every one his just dues." Not only governments, but every one that has exclusive authority must exercise at least these three functions of government. The parent, in exercising parental control, must lay down rules of conduct, must judge of their merits, and must

¹ *International Law*, 4th edition, p. 50.

enforce them. The school teacher as well as the despot must have these attributes of sovereignty.

Parts of a Law. — Every law consists of four parts: (1) the *declaratory*, which defines what is right and wrong; (2) the *directory*, which consists in commanding the observation of right, or prohibiting the commission of wrong; (3) the *remedial*, whereby a method is pointed out to recover private rights or redress private wrongs; (4) the *vindictory* part, which signifies what punishment shall be incurred by wrong-doers. This latter is sometimes called the penalty clause, and is what gives strength and force to a law. A law without a penalty is worthless.

Universality of Law. — Not only the political world, but the physical, the mental, the moral, the religious, and the commercial worlds — all have uniform and permanent rules or laws by which they are controlled. There can be no system or organization without laws. A society or state without laws is in a condition of anarchy. Neither life nor property is safe. The most despotic government is preferable to a condition of anarchy. Mob violence arises, and in the popular mind liberty becomes license, and all good citizens are terrorized. The evil elements of society gain the ascendancy, and might prevails over right. This lawless condition is the most lamentable state into which society can fall. The Reign of Terror in France in the days of the French Revolution is an illustration in point.

Society a Complex. — If society, as we believe and have stated, grew out of the family relation and institution, the original state was the patriarchal family, as that of Abraham. Therefore the state of to-day may be regarded as an enlarged family. From this it will be seen that kinship or blood relationship lies at the foundation of the original state. At this point it is interesting to note that in many of the derivative societies of civilized life, including the present-day fraternities,

secret societies, and many religious denominations, the pleasant fiction of kinship is made the mystical cord that holds them together. The modern civilized state is, however, no longer of this elemental type with the family as its sole institution. Complexity is its chief characteristic. There is an inherent reason for this. As knowledge increases, our intellectual and emotional needs increase. With greater knowledge comes greater experience. When we have once realized the import of true happiness, as well as of genuine misery, sickness, sorrow, the many disappointments of life, we grow sympathetic, and a spirit of altruism grows up within us. A careful study of nature with its unity amid variety, its flowers, leaves, sunsets, and varied scenery, will awaken all the latent sense of the beautiful, as an object of admiration. Our religious natures have developed with our widening experience in the same way. Out of this growing religious sentiment has developed the church. The pleasures of intellectual enjoyment have made the school necessary. This tendency of man to create institutions in order to give expression to the increasing complexity of his nature, is the great characteristic of civilized life, and is what distinctly separates it from the savage state. And the process still continues. A study of man to-day is, therefore, little more than the study of the various institutions which he has developed and is developing. Civil government has to do with one of the most important of these institutions, namely, the state. In solving the problem of government in the past, many and diverse forms of government have been evolved. Most of these have been strongly centralized, and, in consequence, regardless of the rights of the individual. They embody in a greater or less degree the doctrine of "might makes right," by which the people were deprived of their sovereign rights. The modern tendency is to restore these rights to the people. We shall now define the more important forms of government.

Absolute Monarchy. — An absolute monarchy is a government in which the three functions of law-making, law-interpreting, and law-enforcing, are combined in one and the same person. Examples: China, Turkey, Russia.

Limited Monarchy. — A limited monarchy is a government in which there is an hereditary executive and a legislative department whose members are chosen periodically by the people, the judiciary being responsible directly to the sovereign. Examples: England, Denmark, Sweden, and Norway.

Republic. — A representative democracy, or republic, is a government in which the chief executive and the members of the legislative department are chosen periodically by the people. The judiciary may be appointed by the executive, or be elected by the people. Examples: United States, Mexico, France.

Democracy. — A government in which the whole body of people meet to make the laws is called a pure democracy. This is possible only in a small state. The governments of some of the Grecian states of antiquity were of this sort, also some of the early English colonies of America.

Oligarchy. — A state in which all the functions of government are in the hands of a few self-appointed leaders is called an oligarchy. The word means "government by a few."

Aristocracy. — If a class of nobles rules the state, the government is called an aristocracy.

Absolute and Limited Governments. — The foregoing forms can be divided, for convenience, into two classes, — absolute and limited. Strictly speaking, no governments now in exist-

ence are really absolute. They are, in fact, restricted by ancient customs and precedents, or by constitutions. The same is true of our own Republic.

Might and Right. — From the earliest times these two principles have been at variance. The possession of power creates a desire for more, hence the tendency of all governments has been and is to ignore the people. All the great nations of antiquity more than once have experienced the horrors of civil war, simply because of the tyranny of their governments. The growing intelligence of the race constantly quickened among the people the desire for greater liberty. The "Story of Liberty" is an interesting one, and full of valuable lessons for the young. Civil and religious liberty has been a child of slow growth, and it has not yet reached the robustness of adult life. Bloody wars and cruel persecutions have been its lot at every new stage. Our own nation is to-day the best personification of its highest development. When we come to sketch the growth of the English government, we shall see many illustrations of "man's inhumanity to man," and of the bitter struggle between might and right.

Constitution. — A constitution is that supreme, fundamental law of a state which the people themselves make. It is intended to protect the rights of the citizen against any threatened usurpations by the government. It contains the framework of the government, and prescribes the extent of the powers, and an outline of the duties the people have imposed on their servants, the officers of the government. Constitutions are modern in their origin. Some countries, as England, have, in lieu of a formal and written constitution, a series of concessions from arbitrary rulers, and a long line of immemorial customs which stand for a constitution and serve as a check on the government.

QUESTIONS

1. What is the origin of society? Of the state?
2. What is the original principle of government?
3. Define state, government, sovereignty, law, anarchy, constitution, monarchy, and republic.
4. Name the functions of government.
5. Name two or more political tendencies that, in your opinion, are characteristic of our civilization.

CHAPTER II

THE DEVELOPMENT OF RELIGIOUS AND POLITICAL LIBERTY IN ENGLAND

As hinted in a former chapter, the present happy condition of society, as we find it in the United States, was not accomplished in a brief time, neither can any one country or people claim all the credit for it. The liberty we enjoy was secured by centuries of conflict in Great Britain, Holland, Germany, and other countries of the old world. As most of the original settlers of the colonies were from England, it will be both proper and sufficient for a student of civil government in the United States, to learn briefly the struggles of the people of that country to secure their civil, religious, and political liberty.

Freemen and Slaves. — England owes her greatness to-day, in a great measure, to the mixed character of her people. While the predominant stock is of the great Germanic family, she is still greatly indebted to the infusion of the blood of the Celts — the original inhabitants — and of the Normans. The three German tribes, the Angles, Saxons, and Jutes, that took root in England in the fifth century, brought with them the two great Germanic classes, — freemen and slaves. The freemen were of two classes, — those who owned land, and those who did not. They also brought over from the continent their various governmental institutions, such as the town, township, town meeting, borough, hundred, shire, and county court. After England was conquered by William of Normandy in 1066, many changes were made in these original Anglo-Saxon institutions, and in course of time as the Norman

and Saxon began to coalesce, new governmental names either supplanted the old, became contemporary with them, or were introduced to express a relatively new governmental idea. Among the new political names that came into the language to stay were Manor, Parish, Kingdom, and Parliament (1246). We shall now be interested in briefly defining these several terms, and the student should take special pains to note those of continental, and those of pure English origin, in so far as a distinction can be made.

Township. — Long before the Anglo-Saxons invaded England, their ancestors, in family groups, were accustomed to surround their little hamlets with wide stockades or hedges as a defense against their enemies. To this protecting hedge or stockade they gave the name of “tun,” which name in a short time, by figure of speech, stood for the little enclosure. After a time, the name *tun-scipe*, or township, was given to the village when spoken of in connection with the surrounding country. It is the oldest governmental institution.

Borough. — This word is from “burg,” which, like “tun,” meant a fortified place. The word is often found in combination, as in Edinburg, Petersburg, etc. In England it took a more definite meaning than it had on the continent. It came to indicate a more highly organized system of government, and its inhabitants to have a larger share of freedom than in the township.

Town Meeting. — This was simply an open-air meeting of the inhabitants of a township. They met to settle the affairs of the “tun,” to punish offenders, to distribute, annually, the lots of land for tillage. They chose town officers, as the reeve, the tithing-man, and, in later times, they chose four men to represent the township in the courts of the county.

Hundred. — In ancient Germany, the hundred sometimes

denoted a group of persons, but its exact meaning, as well as its origin, is obscure. It is very probable that the Teutonic colonists of Britain, in the beginning, arranged themselves in hundreds of warriors. Blackstone says: "Ten families of freeholders made up a town or tithing, and ten tithings composed a superior division called a hundred, as consisting of ten times ten families." In southern and central England it meant a division or subdivision of a county, and in northern England the corresponding district was called a "Wapentake." As applied to territory, its origin is still more uncertain. The division of hundred was introduced into the colonies of Pennsylvania, Virginia, Maryland, and Delaware, and still exists in the last named state. As we now know the word, it means simply a political district larger than a township and smaller than a county. In ancient times there was a court known as the Hundred Court. The officers of this court were the chief lords of the hundred, together with the "four best men" and the reeve from each township and borough. It was the court of appeal from the town meeting. When the county courts were established in England, they absorbed the hundred court, and the name hundred is now used only to designate a district.

Shires. — The name "scire" (A. S.) or shire marks the territorial division immediately superior to the hundred. It simply means a share of a larger whole. After the Anglo-Saxons had lived in Britain for a considerable time, owing to the almost constant wars in which they were engaged, the war leaders or chiefs finally became permanent rulers, and later on received the name of King. The particular territory over which he ruled was called a kingdom. The different Germanic tribes in their struggles with one another gradually divided Britain up into a number of little kingdoms. In 828, these little kingdoms were conquered and reduced to subjection by Egbert of the Kingdom of Wessex (West Saxons), and then

for the first time we have a united England. This date marks the beginning of English history; all prior to that time is properly designated as the history of Britain. After this event, the little kingdoms were known as shires or shares of the united kingdom. In each shire the king had an officer called the "shire-reeve," or sheriff. Reeve means a man in authority, or having charge of something. The king usually selected the sheriff. He was the highest officer of the shire, and, ordinarily, was the presiding officer of the county court. After the conquest of England, in 1066, by the Normans, French names and political ideas, based on feudalism, became the fashion, and the word county was partially substituted for shire. It means the domain of a count or earl. England has to-day forty counties (the greater number of which, however, are called shires), Wales has twelve, Scotland, thirty-three, and Ireland, thirty-two.

Manor. — The name is of Norman origin, but the estate, to which it was given, existed, in its essential features, long before the Norman Conquest; it received a new name, as the shire also did, but neither the one nor the other was created by this change. Even before this event, owing to the violence of the times, many of the old townships had lost their freedom and local system of government, and had passed under the control of some lord. When this transfer of sovereignty occurred, the district was known as a manor. It was then subject to the jurisdiction of a court-baron held by the lord or baron. The word now means in English a landed estate, especially one the tenure of which vests the proprietor with some particular rights of lordship.

Parish. — The Anglo-Saxon settlers of England were heathen when they came into the country in the fifth century. More than a hundred years later, or, more exactly, in 597, Pope Gregory, who was then at the head of the Roman Catholic

Church, sent Augustine, with a band of forty monks, to Britain, to convert to Christianity these brave but rude people. The first convert was Ethelbert, king of Kent, who, through the influence of his queen, received graciously the catholic missionaries. Before the year had passed, ten thousand Kentish people had been baptized. Christianity, following the Roman method, began to organize, and instead of confining itself to religious matters, assumed control of many civil affairs. The church was made a state institution, and the people were taxed for its support. It divided the country into parishes, having, in most cases, the same boundaries as the Saxon townships, though sometimes two townships were joined together to form a parish. In this way the term parish began to displace the older term township, and, as a result, we have the three terms, township, manor, and parish, to indicate practically the same geographical area. The word now has a political significance in England, as well as an ecclesiastical one. To-day, England and Wales have about 13,000 ecclesiastical parishes, and about 15,000 civil parishes, of which not more than 10,000 coincide with the ecclesiastical districts bearing the same name. In the United States in colonial times, in some of the southern colonies, it was a subdivision of the county for the purposes of local government. In Louisiana, the term parish is used instead of county.

Parliament. — The Saxon government of England was vested in an elective sovereign, assisted by the council of Witan or "Wise Men." This national council was the true beginning of the parliament of England. Such a council was originally held in each of the smaller kingdoms before they were united under Egbert. The Saxon name for this council was Witenagemot, and the Norman name, *Magnum Concilium*. After 1246 it is called Parliament. It made laws, imposed taxes, concluded treaties, advised the king as to the disposal

of public lands and the appointment and removal of officers of the state, and even assumed to elect and depose the king himself. The witan also exercised jurisdiction as a supreme court. It differs from the town-moot (town meeting) in the fact that only those summoned by the king — the prelates or churchmen, the earls or lords, and others of the nobility — were present, while in the town meeting the whole body of freemen and cultivators of the folk-lands¹ met freely on the village green (*vide* Town Meeting, p. 10). It also differed from the hundred-moot or shire-moot, to which representatives were sent from the town-moot.

Centralization. — With the coming of the Normans, and their strict feudal ideas, the king grasped in his own hands the highest functions of the government, but continued the old local courts of the hundred and the shire, which had been the basis of Saxon freedom. When William dispossessed the Saxon lords of their estates, and gave them to his Norman barons, he was careful to distribute the land throughout his kingdom, in order that the lords might not concentrate and become too powerful for him. He also did another thing very suggestive in itself and different from the feudal customs of France and Germany. When he demanded and received the sworn allegiance of his lords, he also required every lord's free vassal or tenant, from Cornwall to the Scottish border, to take the same oath. By this act England was made one, and the government was centralized in one person — the king. This tendency, not new, toward centralization was the great weapon of the despot to repress the liberties of the people. We shall see, as we proceed, that, as antagonism to this tendency developed, the doctrine of popular rights — of liberty — became the watchword of the people. Step by step the people gradually wrung from selfish and tyrannical kings one concession after

¹ The common lands of the community or nation.

another, until the present-day freedom has resulted. Almost all of the earlier kings of England quarrelled with their subjects on the question of raising money. The kings claimed the right to demand money from the people; the people claimed that what they gave was a concession, and that they could not be taxed without their own consent. They denied to their kings the right to imprison and to condemn the subject without trial. On these and other questions the king and people grew apart.

Magna Charta. — The first crisis came in 1215, when the barons and clergy of England (this time as the unconscious representatives of the people) compelled King John to sign Magna Charta. This “must always be considered the most important concession that a freedom-loving people ever wrung from a tyrannical sovereign.” This act was the means of securing constitutional liberty as an inheritance for the English-speaking race in all parts of the world.

Terms and Value of the Charter. — It was stipulated in the charter that the following grievances should be redressed: first, those of the church; second, those of the barons and their vassals or tenants; third, those of the citizens and tradesmen; fourth, those of freemen and serfs. Of the sixty-three articles which constituted it, the greater part, owing to the changes of time, are now obsolete; but three possess imperishable value. These are, first, that no freeman shall be imprisoned or proceeded against except by his peers, or the law of the land; second, that justice shall neither be sold, denied, nor delayed; third, that all dues from the people to the king, unless otherwise distinctly specified, shall be imposed only with the consent of the National Council. Of course, King John and his successors often disobeyed the terms of the great charter, and the struggle of the people to maintain its provisions was as memorable as it was patriotic.

House of Commons. — Frequent violations of the terms of the charter by King Henry culminated in the people winning another great victory, but this time only after civil war had arisen and a bloody battle fought. The battle of Lewes, in 1264, made Henry III. a prisoner in the hands of the Earl of Leicester, Simon de Montfort, and the Earl summoned a parliament that differed from all its predecessors in the fact that for the first time "two citizens from each city, and two townsmen from each borough or town, together with two knights or country gentlemen, from each county were summoned to London to join the barons and clergy in their deliberations. Thus, in the winter of 1265, the House of Commons, or legislative assembly of the people, originated. It must be remembered, however, that as yet it was only a revolutionary body, and had no legal existence. After 1295 it became a legal body. At last those who had neither land nor rank, but who paid taxes on personal property only, had obtained representation. From this latter date, parliament became a true representative body standing for the whole nation.

In the reign of Edward I. it assumed substantially its present form of king, lords, and commons. At first, they all sat together, although there is no evidence that they ever voted together as a single assembly. During the reign of Edward III. (1327-1377) they deliberated separately, but delivered a collective answer to the king. The first separate sittings of the commons was in the chapter-house of the Abbey at Westminster.

Business of Parliament. — The Parliament is the supreme legislative body of England, and the House of Commons is practically not only superior in power to the House of Lords, but is the real government of England. The commons originate all bills for raising revenue, and have more than equal authority in law-making. The consent of the House of Lords

is necessary to every act of legislation, but it is not suffered to withhold that consent when the Commons speak emphatically. The House of Lords is, however, the supreme court of appeal, although it has long since ceased to exercise its judicial functions as a body. Those functions are now exercised by the Lord Chancellor, who is *ex officio* president of the House of Lords, and three Lords of Appeal, who are life-peers.

Election and Term of the Commons. — Members of the House of Commons are elected, by secret ballot, for a term of seven years. “Any full citizen is eligible for election except priests and deacons of the Church of England, ministers of the Church of Scotland, Roman Catholic priests, and sheriffs and other returning officers,—and except also English and Scottish peers. Irish peers are eligible, and have often sat in the House.” No House of Commons, in recent times, has ever lived its full term of seven years. The members of parliament receive no pay for their services. The Commons elect their own speaker and other officers.

Number of Members of Parliament. — The House of Lords consists of 590 members. The House of Commons consists of 670 members: 495 for England and Wales, 72 for Scotland, and 103 for Ireland.

Cabinet Government. — The cabinet consists of the principal ministers of the state. The king appoints to the cabinet such ministers as have the confidence of the House of Commons. He does it in this way: he sends for the recognized leader of the political party which has the majority in the House of Commons, and asks him to form a cabinet. The king then appoints and commissions those so named. These men are always chosen from both houses of parliament. This cabinet, in connection with the king, administers the affairs of the government. If they are defeated in any important measure which

they are urging before the commons, or are censured in any way, they must resign. If a defeated or censured ministry thinks that the House of Commons in its adverse vote has not really spoken the opinion of the constituencies, they can advise the sovereign to dissolve the House and order a new election; that advice the sovereign must take, and the ministers stand or fall according to the disposition of the new House toward them. Modern cabinet government in England began with George I. (1714-1727), but it grew out of the ancient council which, from the earliest period of English history, as was intimated in a former chapter, was accustomed to consult with the king on all matters of importance. Charles II. (1660-1685) reduced the number to a small confidential committee who met and consulted with him in his cabinet or private room, and who thus came to be called the "cabinet council," or briefly, "the cabinet." George I., chiefly because he could not speak English, adopted the expedient of appointing a chief adviser, or prime minister, who chose his own cabinet from men of the political party to which he belonged. Thus Sir Robert Walpole, the first prime minister, began that system by which the executive affairs of the government are managed to-day. This system has become so well established that when George II. (1727-1760) came to the throne, he said: "In England, the ministers are King."

CHAPTER III

ADDITIONAL STEPS IN THE DEVELOPMENT OF LIBERTY IN ENGLAND

The Magna Charta and the House of Commons, as has been said, were the first two checks placed, by the people; upon the absolute tendencies of their kings. To maintain these and to secure others, required great heroism and much suffering on the part of the people. As the commons acquired more confidence, they ceased framing petitions to the king, and, instead, they gradually adopted the surer method of framing their wishes into statutes, then presenting them to the king for approval. "They claimed the right of free discussion, and then the right to examine into public expenditures, and to hold the king's ministers responsible for maladministration." All these were signs that the idea of the government's responsibility to the people was gaining ground. It marks also the beginning of the gradual transfer of sovereignty, which the kings claimed as a natural inherent right, over to the people themselves, where the God of Nature placed it.

The Tudor Kings. (1485-1603.) — With the death of Richard on Bosworth Field, the War of the Roses ended, and Henry VII., the first of the Tudor line, ascended the throne. The war had practically destroyed the old nobility, who had, up to this time, been a check on kingly tyranny, and Henry and his successors had almost absolute sway. The result was, that the people suffered the most gross and oppressive exactions. When parliament refused to vote money, the king's ministers raised it by illegal means. Personal security was no more inviolate than property. Hallam says: "A single suspicion

in the dark bosom of Henry VII., a single cloud of wayward humour in his son, would have been sufficient to send the proudest peer of England to the dungeon and the scaffold." During the reigns of Henry VII. and Henry VIII., the authority of the king was more nearly absolute than at any other time. The people, notwithstanding their charter and their Commons, were too weak to control their kings.

Separation of England from the Roman Church. — Henry VIII. (1509–1547), having quarrelled with the pope about a divorce, renounced his allegiance, and defiantly proclaimed England forever free from the control of the catholic church. This, we now believe, was better for England, because it crystallized in the government the idea that each nation must be supreme in ecclesiastical as well as in political affairs. This act, however, indirectly strengthened parliament, for the king, knowing that in casting off Rome he was in advance of the age, in order to bolster himself, had himself proclaimed by parliament as the head of the English catholic church. He also with parliament assumed complete control of the regulation of all church affairs. This gave parliament more prestige.

Protestant Reformation. (1517.) — During the reign of Henry VIII. the great religious movement, known as the Reformation, was inaugurated by Martin Luther. It began in Germany, but soon spread over northern Europe, the home of the Germanic peoples, who simply transferred their allegiance from the Pope of Rome to the Bible. At this time, Charles V. (1519–1556) was not only the king of Spain, but of Germany, Austria, and the Netherlands. He was a devout catholic, but of a despotic and tyrannical nature. He especially hated the protestants, and adopted the most cruel means to extirpate the heresy, as he considered that form of religion. His policy soon made religion a political question, so that, as the Reformation spread over Europe, religion and politics became for the most

part closely related subjects. A man's religion decided his party affiliations.

Genevan Republic. — Early in their contests with Rome, the protestants became divided into numerous hostile sects. In Switzerland arose the Zwinglians who followed Ulrich Zwingli (1484-1531). The Calvinists were followers of John Calvin (1509-1564), a Frenchman by birth, who, forced to flee from France, found a refuge at Geneva, of which city he became a sort of protestant pope. He regulated the affairs of church and state, and established a kind of republic or representative democracy. To Geneva came the English protestants when exiled by the persecutions of Mary (1553-1558). There they practically all became Calvinists in theology, and some of them adopted the church polity of Calvin. This system was representative in character, and when transplanted to Scotland and England by John Knox and others, it took root and became known as presbyterianism.

Puritans. — During the reign of Elizabeth (1558-1603), these exiles returned and were more than ever hostile not only to the catholic church, but to the church of England whose formalism was distasteful. The absorbing question with them was: "What is the scriptural form of government?" The Bible was authoritative for all, but they did not all read it the same way. While the protestants differed among themselves on this question, none were satisfied with the Anglican church, and they boldly demanded the purification of its ritual. These opponents of formalism began to be called Puritans. During the latter years of the reign of Elizabeth there were four religious principles up for discussion, viz., romanism, episcopacy, presbyterianism, and independency, the latter two being classed as Puritans. Episcopacy, or the church of England party, was supreme because it had the royal sanction and was the state church. As such it had the strong arm of the gov-

ernment to enforce conformity to its tenets. And it insisted on conformity to the extent that it punished severely all dissenters, whether Puritans or Catholics. Many of the independents not only refused to conform to the church ritual, but, instead, organized churches of their own, on which account they began to be called separatists. The first Presbytery of English puritans was held in 1572. The essential features of presbyterian church government must be noted by all students of civil government for the reason that they have greatly influenced not only English, but American governmental forms. Some of these features are: the equality of the clergy, the creation of ruling elders by election, who, in conjunction with the minister, formed the "session" of each local church. Next above the session was the Presbytery, then the Synod, and last of all, the Assembly. These were all courts of appeal, except the first, and the original source of authority for each and all was the elective franchise of the people wherein sovereignty abided. The form of government, therefore, was not a pure democracy, but a representative democracy or republic, which is now the American idea. The Independents, or Congregationalists, were democrats, pure and simple, in their church government, and made the congregation the ultimate court. The weakness of this form, when applied to large organizations, was the lack of any cohering qualities. The congregational Puritans settled in New England, while the presbyterian Puritans settled in the middle and southern sections of the United States. Out of congregationalism has grown the doctrine of the separation of church and state.

The Stuarts. (1603-1689.) — The Stuart kings of England, believing that kings got their authority to rule from God, could not tolerate any religion that looked to the people as the source of governmental authority, hence all who refused to conform to the church of England were persecuted until many left the

country. The Puritans, in fighting for their religious rights, became the exponents of political equality and the rights of man. Persecution drove them ahead even of their beliefs, and they unconsciously became, in the abstract, upholders of "the freedom of conscience" in religious questions, when, in fact, they were still quite intolerant toward all that did not accept their own respective religious opinions.

Petition of Right. (1628.) — By the time the first Charles began his reign in 1625, the Puritans had grown stronger, and many of them, from time to time, secured seats in the House of Commons, so that each successive House was becoming more and more permeated with Puritan ideas of equality. The voice of the commons now began to be for free speech in parliament, for the right to discuss all matters pertaining to the general interest of the kingdom, for exemption from arbitrary imprisonment, for the principle that there should be no taxation without their assent, and for the right to judge of the elections of their own members. In short, they remembered the terms of Magna Charta, and they saw how all its provisions were being violated. All these claims were bitterly resisted by James, and after him by Charles. Each of these kings summoned parliaments to grant him money to carry on the government. The Commons demanded redress of grievances as a condition of voting supplies. On this issue both parties stood firm. In 1628, the Commons framed an instrument called the "Petition of Right," which was in substance a law reaffirming some of the chief provisions of the Great Charter. In it the Commons complained of illegal and unjust procedure, and claimed four rights: first, that no person should be compelled to pay a tax levied without consent of parliament; second, that no freeman should be imprisoned except by regular legal process; third, that soldiers should not be quartered upon the people; fourth, that the people should not be subjected to martial law. In the

petition there was not an angry word, but as a member of the Commons declared, "We say no more than what a worm trodden on would say if he could speak: I pray thee, tread upon me no more." At first, Charles refused to sign the Petition, but finding that money could be secured by no other means, he at length gave his signature. With Charles, however, that meant nothing, for he at once ignored its provisions, and, for eleven years, ruled without a parliament, raising money by the most illegal and oppressive methods.

When, in 1640, he finally did summon parliament, a majority of its members were Puritans: Presbyterians and Independents. In addition to them, there was also a church of England party. The spirit of this body soon showed itself, and, at the outset, carried out two measures of the utmost importance in restraining the arbitrary rule of the king. One law ordained that parliament should not be dissolved without its own consent; the other abolished the Court of Star Chamber, a "body of judges wholly under the king's control, by which all the constitutional modes of administering justice had been set aside." Charles was compelled to assent to these measures. He, however, still continued to intrigue and conspire against the parliamentary majority, which, in turn, was becoming bolder in urging repressive measures against him. At last (1642), driven to extremities, he resolved to coerce his enemies by military force.

The Civil War. (1642.) — Both sides appealed to arms, and the Civil War began. On the side of the king were the nobility, the clergy of the established church, and the country gentlemen, known collectively as Cavaliers, from their dashing and daring horsemanship. Their leader was Prince Rupert, a nephew of Charles. On the side of parliament were the shopkeepers, small farmers, and a few men of high rank; they were called, in ridicule, the Roundheads, from their fashion of wear-

ing their hair closely cropped, so that it showed the shape of the head. Their leaders at first were Essex and Fairfax, and, later, Oliver Cromwell. Geographically speaking, the eastern half, with London, was against the king, and the western half was for him. Edgehill, Marston Moor, and Naseby were the most important battles. The last named was fought in 1645, and was a decisive victory for parliament. Charles was taken prisoner, but it was not until 1649 that he was tried for treason and beheaded.

The Commonwealth. (1649-1660.) — The Commons was now the government of England, and Cromwell controlled it. The Commons at once abolished the House of Lords, and vested the supreme executive power in a Council of State of forty members, of which the first president was John Bradshaw, the poet Milton was foreign secretary, while Fairfax with Cromwell had command of the army. The real power was in the army, and the true head of the army was Cromwell. England was now, nominally at least, a republic. The people were in control; they had, for the first time in the history of England, set aside the hereditary government, and had boldly assumed what they had long contended for — the sovereign power of the state. But their triumph was short-lived. The commonwealth had many enemies and many difficulties to overcome. Some of its own friends were half-crazy fanatics, and the wise and prudent suffered on account of these. The times were not yet ripe for the experiment, and many of the lower classes mistook liberty for license, and wished to abolish private property, and establish “an equal division of unequal earnings.” Cromwell had to suppress these dangerous classes, and then they took sides with the royalists, who were just waiting for this opportunity to restore the Stuart line.

The Restoration. (1660.) — Cromwell died in 1658, but for several years before his death he had been driven to assume

absolute control, and some of his laws bore heavily on the Cavaliers, many of whom, like the Puritans during the reign of Charles I., emigrated to America. They, however, settled in Virginia. Richard Cromwell, son of the Lord Protector, after a reign of a few months, resigned. The control of affairs now fell into the hands of a few military leaders, and the people were full of anxiety and confusion, so that, in 1660, they gladly received as king, Charles II., son of Charles I., who had been in exile during the existence of the commonwealth. The restoration of the royal government did not mean that the people surrendered again to a king their sovereignty, but that they felt themselves politically unable to carry out their democratic ideas of government. For Cromwell's government had gradually grown more despotic and more absolute than the one it had overthrown, because it had no recognized checks. Then, too, owing to the religious cant of the times, the whole life of the people had been reduced to a narrow system of sour self-denial. It repressed all the joyous emotional life as sinful. But with the profligate Charles, all was changed, and everything that was sacred, pure, and just, was ridiculed out of sight. Profligacy became the fashion in both speech and action. In addition, he persecuted all the religious Dissenters in a cruel manner. The government, as reëstablished by Charles II. and continued by his brother, James II., was even more arbitrary than before the commonwealth. James tried to restore the absolutism that had characterized the Tudors. He claimed the power to set aside acts of parliament; he purposed to repeal the Habeas Corpus act, passed in the preceding reign; he wished to establish catholicism as the state religion; he interfered in the election of members of parliament; and he assumed control of ecclesiastical affairs.

The Revolution. (1689.) — The people at last became so alarmed and exasperated at his arbitrary measures that, after

James had reigned four years, they drove him from the country. The crown was then offered to William of Orange and his wife Mary, the daughter of James. The event is known as the Revolution; and its consequences for greater liberty were most important.

Bill of Rights. — After the flight of James II., a convention which was practically a parliament, met, and declared that, James having broken the original contract between king and people, the throne was therefore vacant. This convention also issued a formal statement of principles under the name of the Declaration of Rights (1689), in which were recited the illegal and arbitrary acts of the late king. It also proclaimed James no longer sovereign, and it resolved that the crown should be offered to William and Mary. This Declaration having been read to them, and having received their assent, they were formally invited to accept the joint sovereignty of the realm, but the actual administration was to be vested in William alone.

Whigs and Tories. — Prior to the Civil War, the two political parties known as Whigs and Tories, respectively, had grown up, each of which was really an outgrowth of the divergent religious ideas of the time of Charles I. Religion and politics were intimately related. The tories were especially strong in the highlands of Scotland, the south of Ireland, and among the clergy of the church of England. This party supported the cause of the deposed king and the principle that sovereignty abided in the king. Its tendency was repressive of liberty. The whigs were the progressive party. They believed that the people had the right to set aside a tyrannical ruler; that the old Saxon idea of equality and personal liberty was a higher principle than the "divine right of kings." The Bill of Rights has been called the third bulwark of English liberty; the other two being Magna Charta (1215), and the Petition of Right (1628). The Bill of Rights simply embodied the Declaration of Right with some slight changes.

Provisions of the Bill of Rights. — The chief provisions of the Bill of Rights were: (1) That the king should not maintain a standing army in time of peace, except by consent of parliament; (2) that only by the consent of parliament could the people be taxed; (3) that every subject has the right to petition the crown for redress of any grievance; (4) that the election of members of parliament ought to be free from interference; (5) that parliament should frequently assemble and enjoy entire freedom of debate; (6) that the king be debarred from interfering in any way with the proper execution of the laws; (7) that a Roman Catholic or a person marrying a Roman Catholic be henceforth incapable of receiving the crown of England.

The Effect of these Great Checks on Royal Absolutism. — We have now traced the growth of the governmental idea from the pure democracy of the town meeting of the ancient Saxon, in which the people were the true source of all legitimate authority, through the formative period of English national life; through the period when the Norman was treading the Saxon under his feet, and absorbing for the crown the inherited sovereign rights of the people; through the still darker days of the Tudor and Stuart absolutism; down to the days of the Revolution. The time traversed has been an age of violence, the selfish side of man's nature has prevailed, and become personified in kings who assumed a divine appointment, and who have endeavored to wring from the people their liberties and the right of self-government. Like the swinging of a pendulum, sovereignty has passed from the extremes of a pure democracy down through the blood of conflict, until we find it strongly guarded by the mailed hand of royal despotism. Still the conflict continues, and the brave peasant, the industrious tradesman and the upright and intelligent noble, united together under the principles of the universal brotherhood of

man, gird on their armor, and with Christian heroism they begin to win back for its rightful owners the principle of self-government. In 1215 they compel John "Lackland" to sign Magna Charta, — and the first check is placed upon despotism. In 1628, Charles II. affixes his royal signature to the Petition of Right, and the people have secured another check. The signing of the Bill of Rights by William and Mary, who were chosen to rule by the people through their representatives, and its acceptance by future English kings, made this instrument the most important safeguard to the liberty of the subject.

In future chapters we shall see how these hardly won principles were to be transferred to the soil of America.

QUESTIONS

1. What nations of modern times are of Germanic origin? Of Latin origin?
2. What are the predominant elements of the English nation?
3. What Germanic or Teutonic tribes settled in England? When? Who were the original inhabitants of Britain?
4. Into what two classes were the Germanic peoples divided?
5. What governmental institutions did they bring into England?
6. Describe the township.
7. Describe the borough.
8. Describe the town meeting.
9. Describe the hundred.
10. Describe the shire.
11. Describe the manor.
12. Describe the parish.
13. What was the origin of the English parliament?
14. What were some of the functions of the council of Witan?
15. In what respects did it differ from the town meeting? The hundred moot? shire moot?
16. What changes did William make in the government?
17. What steps did William take in order to centralize his government?
18. What antagonistic tendencies assume definite shape with the coming of the Normans?

19. Who became the representative exponents of these tendencies?
20. What was the first great crisis in this struggle? When?
21. What are some of the most important provisions of Magna Charta?
22. Describe the rise of the House of Commons. When?
23. In what way did the Commons differ from the House of Lords?
24. What are the elements of Parliament?
25. Compare the powers and duties of the two houses of Parliament.
26. Describe the election of the members of the House of Commons. Who are eligible? Term of office?
27. Tell all you can of cabinet government in England.
28. What acts of the Commons indicated its growing influence in the government?
29. What was the condition of the people during the reign of the Tudors? Why?
30. When did England throw off her allegiance to the Roman Catholic Church? Why?
31. Why is this an important event in history?
32. What was the Protestant Reformation? When?
33. What effect did it have on the relations of the English sovereigns to their subjects?
34. Who was the first of the Stuart kings? When?
35. What religious classes grew up during the time of Elizabeth?
36. In what respects did they differ?
37. Why were the Puritans obnoxious to James I., and into what two classes were they divided?
38. What was the Presbyterian form of church government? The Congregational?
39. How did he treat the Puritans?
40. Where did many of them go in consequence of the tyranny of James I. and Charles I.?
41. What were some of the causes of the Civil War?
42. What was the Petition of Right? When?
43. Who were the parties to the Civil War? When was it and what was the result?
44. Were the victors in this struggle friends of the people?
45. What was the Commonwealth, and why was it a failure?
46. When was the Restoration, and why so called?
47. What was the policy of Charles II.?
48. What were the causes of the Revolution in 1689? Who were the gainers by it?

49. What was the Bill of Rights, and what did it contain?
50. What were the great English parties at this time, and what principles did they each represent?
51. In what respects do these various struggles illustrate the fact that the leading issue was that of popular as opposed to royal sovereignty?

SOME IMPORTANT EVENTS ILLUSTRATING MAN'S GRADUAL EMANCIPATION FROM TYRANNY

Birth of Christ.

- A.D. 306, Reign of Constantine the Great.
- A.D. 476, Fall of Rome.
- A.D. 771-814, Charlemagne and his founding of schools.
- A.D. 900, Development of Feudalism.

ENGLAND

- A.D. 1066, Norman conquest of England.
- A.D. 1100, Charter Henry I.
- A.D. 1164, Constitutions of Clarendon, by which Henry II. (1154-1189) made the civil courts supreme in civil and ecclesiastical affairs.
- A.D. 1190, Rise of Free Towns, came about through the third Crusade.
- A.D. 1215, Signing of Magna Charta by King John.
- A.D. 1265, Creation of House of Commons.
- A.D. 1438 (?), Invention of printing.
- A.D. 1517, Protestant Reformation in Germany.
- A.D. 1534, Act of Supremacy passed by English Parliament at request of Henry VIII. by which England was freed from papal supremacy.
- A.D. 1601, First Poor Law in England, by which universal brotherhood of man was recognized.
- A.D. 1607, Beginning of American colonies.
- A.D. 1628, Petition of Right
- A.D. 1640, Long Parliament.

A.D. 1649, Execution of Charles I.

A.D. 1679, Habeas Corpus Act.

A.D. 1689, Bill of Rights.

First daily paper, reign of Queen Anne.

Cabinet Government established in reign of George I.

A.D. 1776, Birth of the Government of the United States of America.

Liberty of the press. Education of the people, extension of commerce, power of Christianity, growth of material wealth, — all exemplified by the nineteenth-century civilization.

SOVEREIGNS OF ENGLAND AFTER 1066

Normans

William I. 1066-1087.

William II. 1087-1100.

Henry I. 1100-1135.

Stephen 1135-1154.

House of Plantagenet

Henry II. 1154-1189.

Richard I. 1189-1199.

John 1199-1216.

Henry III. 1216-1272.

Edward I. 1272-1307.

Edward II. 1307-1327.

Edward III. 1327-1377.

Richard II. 1377-1399.

House of Lancaster (Red Rose)

Henry IV. 1399-1413.

Henry V. 1413-1422.

Henry VI.¹ 1422-1461.

¹ Henry VI. deposed in 1461, but was reinstated for a short time in 1470.

House of York (White Rose)

Edward IV.	1461-1483.
Edward V.	1483. (Never crowned.)
Richard III.	1483-1485.

House of Tudor

Henry VII.	1485-1509.
Henry VIII.	1509-1547.
Edward VI.	1547-1553.
Mary	1553-1558.
Elizabeth	1558-1603.

House of Stuart

James I.	1603-1625.
Charles I.	1625-1649.
(The Commonwealth, 1649-1660.)	
Charles II.	1660-1685. ¹
James II.	1685-1689.

Houses of Stuart and Nassau

William III. and Mary II.	1689-1702.
Anne	1702-1714.

House of Brunswick

George I.	1714-1727.
George II.	1727-1760.
George III.	1760-1820.
George IV.	1820-1830.
William IV.	1830-1837.
Victoria	1837-1901.
Edward VII.	1901-

¹ Restoration.

CHAPTER IV

DISCOVERY OF AMERICA AND THE CONTEST OF THE NATIONS FOR ITS POSSESSION

The Discovery of America. — The fall of Constantinople, in 1453; the invention of printing about the same time; and the intellectual awakening of Europe during the fourteenth and fifteenth centuries — were the great moving causes that culminated in the discovery of America. Each of these events was momentous in its consequences. The capture of Constantinople, which for seven hundred years had stood as a Christian fortress against the savage followers of Mohammed, admitted into Europe the Turk — the very incarnation of fanaticism. In the mind of the Turk all who would not accept the religion of Mohammed and follow the crescent were enemies that should be slain. As the nations of Europe were at this time, at least nominally, Christian, they were outlawed. Then, too, during the three centuries previous to the fall of Constantinople, these same nations had invaded Palestine, as Crusaders, and had carried on bloody wars with the Mohammedans. For these reasons, after the fall of Constantinople, the Turk drove the merchants of Genoa, Venice, and Florence — the great commercial cities of Italy — from the Black sea and the eastern Mediterranean. These merchants, for centuries previous, had been carrying on a lucrative trade by ship and caravan with the East Indies, and had grown rich and opulent. Their cities had become the great commercial marts of Europe, and through them the products of the Orient had grown to be necessities for the nations bordering on the great inland sea. By the stopping of this trade, business distress fell like a pall over the

shores of the Mediterranean, and this fact caused men to think of other ways to renew it. The printing press began its work of disseminating the great literature of Greece, and also the theories of its old philosophers concerning the shape and size of the earth. Books of travel, as those of Marco Polo and Mandeville, were also published. These books, full of romance, still further stimulated the commercial classes to put forth new efforts not only to renew the interrupted trade, but to secure some of the marvellous wealth of Cathay as described by the travelers. Then, too, the age was just feeling the full effects of that intellectual revival that marks the transition from Middle to Modern history.

Out of this ferment came Columbus of Genoa, whose bold mind accepted Aristotle's theory that the earth was a sphere. After years of worry and disappointment, he finally induced the joint rulers of united Spain, Ferdinand and Isabella, to furnish ships and men for the purpose of reaching India by sailing westward. It was purely a commercial enterprise, although Columbus mingled with it much pious sentiment concerning the conversion of the heathen. That memorable voyage, which by accident opened up a continent for the future commercial development of the race, also gave to the coming generations of liberty-loving men and women a field for the nurturing of liberal, religious, political, and social ideas; and that, too, at the very time when royal oppression was doing its utmost to suppress the democratic spirit that was just beginning to take on a new lease of life.

Spain.—As the Spanish rulers were the only royal personages that were willing to incur the risk of aiding Columbus, it was but just that Spain should receive the first benefits from the discovery. Columbus, laboring under the delusion that he had actually reached the outlying islands of the country of the Great Khan, whose palace Marco Polo had described as "all

covered with gold and silver," was ever on the lookout for precious metals. In fact, Ferdinand and Isabella as well as Columbus were hoping to greatly enrich themselves, as well as Spain, by despoiling this imaginary monarch. Nothing so stimulates the human mind to undertake hazardous enterprises as the hope of great wealth.

At this particular time the restless and active spirits of the French and Spanish peninsula were dazzled by these tales, and we can readily imagine how eagerly they sought for a way to reach the fabulous city of Cathay whose commerce was so large that "no day in the year passes that there does not enter the city one thousand cartloads of silk alone, from which are made quantities of cloth of silk and gold." Is it any wonder that Spanish explorers were all gold seekers? This fever colored their whole plan of exploration. When Columbus failed to find the expected wealth in the first islands he discovered, he sought a way around them, and still pushed on. In this way he discovered South America in 1498. Other Spanish and Portuguese captains took up the search, but they soon found the way blocked by land; then began that memorable search for a southwest or a northwest passage to India. In 1519-1522 Magellan found the southwest passage, and by it not only reached the East Indies, but actually circumnavigated the globe, thus proving the correctness of Columbus' theory. The northwest passage was only solved this century, in 1854. The Latin races found and claimed the first discovered route, and the Teutonic races directed their attention to the discovery of the northern route, although it was never to be of any practical value. We have reason to believe, however, that these apparently simple circumstances made the north temperate zone in the New World the home of the Germanic races. These races lived in northern Europe, and by the time colonization began in earnest they had become protestants in religion. Through Ponce de Leon Spain dis-

covered and claimed Florida, through Cortez she conquered Mexico in 1521. She claimed the whole continent of North America, on the strength of the bulls of 1493 and 1494, in which Pope Alexander VI. divided by a meridian the New World between Portugal and herself. This meridian passed a little to the eastward of Newfoundland. In 1565, she founded St. Augustine, the oldest city settled by Europeans in the United States. This city was founded to keep out the French, who made two attempts to occupy the south Atlantic coast. The first was that of John Ribault (*re-bo*) at Port Royal, South Carolina, in 1562; the second under Londonnière (*lo-do-near*) in 1564 at the St. Johns river in Florida. These French colonists were Calvinistic protestants and known as Huguenots. Spanish blood or political ideas never in any marked way influenced the people of the United States.

Early English Explorations. — England's title, if title it was, to North America rests upon the voyages of John and Sebastian Cabot in 1497 and 1498. In the first named year they discovered the mainland of North America somewhere near Newfoundland. In those days, priority of discovery gave title to heathen lands. Let the student remember both the event and the principle. When England finally succeeded in making permanent settlements in the seventeenth century, and found France laying claim to the territory, she asserted Cabot's discovery for color of title. In 1576 Frobisher, in seeking for the already mentioned northwest passage, gave his name to Frobisher bay. England further strengthened her claim to the continent by the memorable voyage of Sir Francis Drake, who, while coasting along the shores of South America in 1577, having robbed some Spanish vessels, and fearing to return, sailed out into the Pacific, then northward, and finally circumnavigated the globe.

On this voyage he found a harbor near the present city of

San Francisco. There he landed and remained for several weeks, and took possession of the country in the name of Queen Elizabeth, calling it New Albion.

The first serious attempt to colonize the continent by Englishmen was made by Gilbert in 1579-1583. It was a failure. In 1584 his half-brother, Sir Walter Raleigh, one of the most far-sighted men of his day, sent out an expedition to explore the coast of the Carolinas. The explorers returned with such a glowing account of the country, that Elizabeth, the Virgin Queen, called it "Virginia." Raleigh sent a colony of one hundred and eight emigrants under Ralph Lane in 1585, but it ended in failure. He made a second attempt in 1587, but of this colony no vestige could be found two years later. We shall now briefly sketch the Dutch, Swedish, and French settlements, then take up in detail the permanent English settlements out of which has grown the United States of America.

The Dutch. — "Before the Calverts had made their first settlements on the Potomac, before the *Mayflower* had landed her Pilgrims at Plymouth, bold navigators and enterprising merchants from Holland had taken possession of Manhattan Island, where the city of New York now stands." In the summer of 1609 the English sailor Henry Hudson, then in the service of the Dutch East India Company, sailed along the coast in his ship, the *Half Moon*, and in seeking for the north-west passage to the Pacific ocean, discovered the great river that now bears his name. His report of this discovery soon brought over Dutch traders who made a settlement on Manhattan Island in 1614, and by 1624 they had established trading posts as far north as Albany, and as far south as Fort Nassau, near where Philadelphia now stands. "They called the Hudson the North River, and the Delaware the South River, and the country between the two was known as New Netherlands." Fur-trading was the chief industry of the people. The Dutch

in Holland were in many respects as free a people as the English, and in the matter of religion they were much more enlightened. They were brave, hardy, and industrious, and they had the traits of their Teutonic ancestors on all questions of personal liberty.

The city of New Amsterdam, which afterwards became New York, was of slow growth. For several years the English king, Charles II., had been looking with longing eyes to the possession of this Dutch town of New Amsterdam. Finally, in 1664, he fitted out a fleet under command of Richard Nicolls, and sent it across the Atlantic, and without resistance quietly and forcibly took possession. Its population then numbered 1600 souls. Over this newly acquired territory, including the Dutch settlements on the Delaware, he placed his dissolute brother, the Duke of York, the same who is afterwards known as James II. He became the lord proprietary. The name was then changed to New York, and a new system of government was established for the entire territory. When we come to speak of the civil government of Pennsylvania and New York, we will dwell at length on the laws of the Duke of York. By this conquest, the English also came into the control of the Swedish settlements on the Delaware, as the Dutch had conquered the latter in 1655. Thus did English dominion begin in New York, New Jersey, Pennsylvania, and Delaware, and by one stroke she swept aside two of her rivals for territory in the United States.

The Swedes. — The first settlement of the Swedes was made at Fort Christina, near the present site of Wilmington, in 1638, by the Swedish West India Company. The powers of that company were very much the same as those of the Dutch Company that settled on the Hudson and at Fort Nassau. In their government of the colony the Swedes made liberal provision for the exercise of religion and the support of education.

More will be said of them when we take up the early forms of government in Pennsylvania.

France. — “The oldest French name in America, that of Cape Breton, is probably as old as 1504; the ships from Normandy and Brittany have kept up their fishing in those waters from that day to this.” (Fiske.) From that time on, for one hundred years, the French skirted the Atlantic coast almost continually, and they also made several attempts at settlement, as for instance those of Roberval and Cartier in Canada in 1540–1543, and the Huguenot settlements in Florida in 1562–1565, as was mentioned before. However, the French did not succeed in making a permanent settlement until 1604, when Poutrincourt founded the Port Royal colony in Nova Scotia. But the real founder of French power in Canada was Samuel de Champlain, who was one of the most notable men of his time. He was a man of high character, a Catholic, well educated, far-sighted, and prudent. He made his first settlement in 1608 at Quebec, and from that time, until his death in 1635, he was busily engaged in extending French dominion over the northern part of America. He explored New England before the landing of the Pilgrims, and pushed westward far enough to discover Lakes Ontario and Huron. Jesuit missionaries came over in 1611 and supplemented his sagacious work. The fur trade began to assume large dimensions, and French traders formed alliances with the Indians in the neighborhood of the Great Lakes. The French were generally successful in winning the friendship of the Indians, although the Iroquois of New York were a notable exception. As soon as the English began to form settlements in Massachusetts and southward, the French settlers, more far-sighted than their Saxon rivals, began to plan for universal dominion. One conspicuous reason for this was the fact that they were not religious exiles from their native land like the Puritans, but were active, aggressive, and

patriotic Frenchmen striving to extend the dominion of France. They pushed rapidly up the valley of the St. Lawrence to the Lakes, until in a few decades (1670) they were exploring what is now Wisconsin. In 1673, Marquette and Joliet discovered the northern part of the Mississippi, and descended that great river in boats as far as the mouth of the Arkansas. As early as 1669, La Salle, another brave explorer, discovered the Ohio and Illinois rivers. In 1679, he launched in the Niagara river the *Griffin*, the first vessel ever seen on the Great Lakes. His trials and daring explorations read like a romance. In 1682, he reached the mouth of the Mississippi, and claimed it and all its tributaries with their respective valleys for his beloved king, Louis XIV., after whom he called the country Louisiana. This great man was afterward murdered somewhere in Texas, by three of his own mutinous followers. It will be seen, by reference to the map, that before the close of the seventeenth century, France had explored and claimed the very heart of the continent. All of Canada, the Great Lakes, the valleys of the Ohio and Mississippi rivers were hers by right of discovery. She also claimed all of New York, except the mouth of the Hudson, all of Pennsylvania west of the Allegheny Mountains. While the French were thus gaining a foothold in the great plains of the central part of the continent, the English colonies had been gradually extending along the Atlantic coast. "Anglo-Saxon civilization was thus on the threshold, while the Latin had already entered the open door." These two elements of civilization were soon to engage in deadly struggle for the dominion or sovereignty of the New World, being equally regardless of the rights of the Indians, the natural owners of the soil.

King William's War. — In 1689 occurred the English Revolution (*vide*), and the exiled James II. fled for safety to France, to seek the aid of Louis XIV. William of Orange and

Mary his wife became the sovereigns of England, but the king of France sided with James, and the war thus begun in Europe soon spread to America. This was the first real contest on American soil by white men, and what is still more significant, the contestants were the same old enemies that had been struggling for supremacy in Europe ever since the time of the Cæsars, viz., the Latin and the Teuton. While the French have also German blood in their veins, the Latin greatly preponderates. This first war, which is known in our history as King William's War, was ended after some bloodshed and several Indian massacres, by the treaty of Ryswick, in 1697. But the peace was of short duration.

Queen Anne's War.—In 1701, war broke out again in Europe, and the struggle in America was renewed. In the forests of the New World the Indians perpetrated several atrocious massacres, but nothing of real importance was accomplished.

For twelve years the struggle for dominion went on between the two rivals. The Spaniards, another Latin people, formed an alliance with France, and sent a fleet from Cuba against Charleston, but it was driven off. This war, which was known in America as Queen Anne's War, was finally brought to a close in 1713 by the treaty of Utrecht. By its terms England gained Nova Scotia, and her claim to the possession of Newfoundland and the Hudson Bay country was fully recognized. While the French got the worst of it, they still kept steadily strengthening their hold upon the interior of the continent. "They established a series of fortified posts connecting the Mississippi valley with the Great Lakes." They also founded New Orleans and Mobile in the south.

King George's War.—At length, in 1743, war again broke out between France and England, and it was soon transferred to America. This war is known as King George's War, and

is remarkable on account of the capture of Louisburg, the most important French fortress in America except Quebec, by the New England Militia. The war was ended by treaty of Aix-la-Chapelle in 1748, and Louisburg, notwithstanding the protests of the colonists, was given back to the French.

French and Indian War. — The final struggle for dominion at length began in 1754, the immediate occasion for it being the erection of forts by the French across northwestern Pennsylvania. Where the flourishing city of Erie now stands, Fort Presque Isle was built in 1753, then crossing the portage dividing Lake Erie from French Creek, a tributary of the Allegheny, they built Fort Le Bœuf on a small lake whose waters flow into French Creek. Following the creek to its junction with the Allegheny river, they there built Fort Venango. Finally they completed the chain by building Fort Duquesne at the junction of the Monongahela and Allegheny rivers. This line of forts marks not only the culmination of French dominion in the United States, but the beginning of the end. The English immediately saw that the final struggle for the soil had come, and took steps accordingly. Washington, as the messenger of the governor of Virginia, was sent to warn the French away; failing in his efforts, the governor put him in command of a regiment of troops. The first shot was fired on the 28th of May, 1754, in the woods of Pennsylvania, and thus began one of the greatest wars of modern times. It was a veritable war of the nations of Europe. "France combined with Austria and Russia in the attempt to conquer Prussia, which was then a small kingdom. But Frederick the Great, king of Prussia, proved himself one of the greatest generals that ever lived. England came to his aid, and the enemies of England and Prussia were terribly defeated." (Fiske.) Before the war closed, Spain, too, was arrayed against England, but Saxon prowess overcame all obstacles, and when the brave Wolfe had

led his armies to the top of the Heights of Abraham, the capture of Quebec was sure to follow. In September, 1759, the city surrendered to the English, and French empire in America was doomed. Peace was signed at Paris in 1763, and not an acre of mainland in North America remained in possession of France. For the aid Spain had given her in this war, France ceded to Spain the city of New Orleans and all the scarcely known territory between the Mississippi and the Rocky Mountains.

The Indians. — When Europeans began to come to America in 1492, they found the country peopled with red men whom they called Indians. Those tribes of Indians living within the present limits of the United States were for the most part savages. Society existed, but in a very crude form. No institutional life to speak of, except the family, and that on the lowest possible plane, was in existence. The only virtues deemed worthy of imitation were of a martial order. The hero of the warpath was likewise the hero of the council fire and the village community. The council consisted of the male members of the tribe, and was the highest tribunal. As society among them was completely democratic, there was little distinction of rank, and the tribes usually elected their own chiefs, selecting for the most part those that had distinguished themselves in war. Although in possession of a magnificent domain, they had done nothing to improve and cultivate it. Their agricultural products, as maize and tobacco, grew luxuriantly, and were prolific, but the credit was due more to the richness of the soil than to the industry of the Indian. This Indian population was divided up into three main stocks or races with languages quite distinct. The first, the Moskaki, spread over the country south of Tennessee, and between the Mississippi and the Atlantic. The principal tribes of this stock were the Chickasaws, Choctaws, Creeks, and Seminoles. The second, the Iroquois,

occupied the territory between Maryland and the St. Lawrence, and the Hudson and Lake Huron. The principal tribes were the Eries, the Five Nations of central New York, and the Susquehannocks of Pennsylvania, the Tuscaroras and the Cherokees in the valley of the Tennessee. The third and last of these great groups were the widely spread Algonquins, which included all the other tribes between the Atlantic and the Mississippi, and from the Carolinas up to Labrador. The most important and best known of these Algonquin tribes were the Powhatans of Virginia, the Lenape of eastern Pennsylvania, Delaware, and New Jersey, the Mohegans, Pequots, and Narragansetts of New England, the Shawnees of the Ohio valley, the Pottawatomies, Ottawas, Chippewas, and the Sacs-and-Foxes of the country about the upper Great Lakes.

The territory occupied by these respective tribes varied in extent at different times, depending chiefly on their warlike prowess. At no time, however, even among the most powerful tribes, was there anything like a complete possession of the soil. Yet each and every tribe was jealous of any encroachment upon its territory, and if long continued, war was apt to ensue. This exercise of dominion was the external manifestation of some central authority which for convenience may be called the tribal government. In it was embodied and personified that abstract thing which we call authority or sovereignty. The ownership of, or title to, the land now lying within the borders of the United States prior to its colonization by Europeans, was in these nomadic peoples. We have already shown the manner in which the nations of Europe, regardless of these Indians, came into the country, and endeavored to obtain control of the soil; and how the English, by successive steps, dispossessed the Spaniards, Dutch, Swedes, and French, and thus enlarged their dominion, and extended their sovereignty over the New World by means of their colonies on the Atlantic seaboard. In future chapters, we shall

trace briefly the growth and expansion of these colonies, their forms of Government, the methods they adopted to secure from the Indians title to this soil, and finally we shall show how these colonies began gradually to exercise sovereign rights, and, in consequence, quarrelled with England, the mother country. By doing this, the student will be enabled to observe how dominion to the soil passed from the Indian to the English sovereign, by feudal right, then from the sovereign by imperceptible steps back again to the colony, then through the colony and through the state to the National Government of the United States. This is the logical and historical order.

QUESTIONS

1. What causes brought about the discovery of America?
2. Explain the influence of religion and commerce, respectively, on the maritime spirit of the fifteenth century.
3. What effect did the discovery of the art of printing have on the people of that time?
4. What sovereigns aided Columbus?
5. In the eyes of Columbus, were any of his voyages successful? Why?
6. By whom and when was Florida discovered?
7. Name the basis of England's title to America.
8. What Englishman first began to make serious attempts to colonize America? When?
9. Of what portions of the mainland were the Dutch the first colonizers? When?
10. How, when, and by whom were they dispossessed?
11. Describe the Swedish settlements in America.
12. Who were the Huguenots? Where did they settle, and when? Result?
13. Where and when did the Dutch colonists make their settlements?
14. When and by whom was the Mississippi river discovered?
15. What wars arose between France and England between 1689 and 1754, and what were the leading American events in these wars?
16. By what name is the final struggle known?
17. When was this war, and what was the culminating event?

18. What was the result?
19. What are the chief characteristics of Indian life?
20. Into what three main stocks were the Indians of the United States divided?
21. Locate the Creeks, Eries, Five Nations, Powhatans, Lenape, and Delawares.
22. Describe some of the ways by which these original owners of the soil were dispossessed.
23. What is your opinion of the manner in which the Indian has been treated by the whites?
24. Do you believe that the lands of heathen races rightfully belong to the first Christian discoverer, as was believed by Europeans in the fifteenth and sixteenth centuries?

PART II

THE COLONIES

CHAPTER V

ENGLISH COLONIAL GOVERNMENTS

SECTION I. — THE SOUTHERN COLONIES

Virginia

Motive for Settlement.— With the failure of Raleigh's Roanoke colony in 1587, which was purely a commercial adventure, we hear little of English attempts at colonization until 1606. At this time, England had an uneasy population caused by the widening gulf between the peasants and those above. There was also a religious ferment, as we already know. The merchant and the upper classes were prosperous. The wool trade with Holland and Flanders stimulated sheep raising in England, and this, in turn, required sheep pastures. Vast tracts of tillable land were therefore devoted to this industry — an industry that, relatively, did not require the employment of many laborers. Many were thus thrown out of employment, and the people were in great distress for food, and this distress produced lawlessness. To relieve this condition of the working classes, and to still further gratify the commercial spirit, the great merchants of the cities naturally turned to colonization. Out of this economic condition, all of the southern colonies, with the exception of Maryland, were evolved. New England, Pennsylvania, and Maryland grew out of the religious ferment which was identical in time with the above social con-

ditions. These radical differences in the motives for colonization, between the northern and southern colonies, soon showed themselves in the texture and fibre, not only of the colonists, but in the form of government that each established. It may be remarked that the respective environments of each also modified its development. Raleigh's attempt at colonization resulted in the English naming the entire coast Virginia.

The Charter. — Through the influence of half a dozen prominent Englishmen, seconded by Sir John Popham, chief justice of England, and Sir Ferdinando Gorges, King James I. granted a charter on April 10, 1606, to a company having two sub-divisions: 1., The London Company, composed of London merchants who were to establish a colony within the limits of the territory lying between what is now North Carolina and the mouth of the Hudson. 2., The Plymouth Company, composed of traders and country gentlemen in the west of England, with chief officers at Plymouth, who were to plant a colony somewhere between the mouth of the Potomac and the Gulf of St. Lawrence. But their settlements were not to be within one hundred miles of each other, although their territories overlapped.¹ "These grants were to go in straight strips or zones across the continent from the Atlantic Ocean to the Pacific."² Following his own theory of a centralized government, King James provided that the colonies established under the charter should be directly under his control, and not under that of Parliament. In his instructions sent out with the first colonists he directed that the Church of England should be maintained, and that the English laws concerning land tenure, trial by jury, and the punishment of criminal offenses, should prevail. He, however, permitted the local administration council to coin money, and to manage the public

¹ Thwaite's *The Colonies*, p. 66.

² Fiske's *Civil Government*, p. 141.

affairs of the colony; but all laws had to be ratified by the crown or the general council in England — his creatures. He practically prescribed a constitution for the colonies and left little to the judgment of the patentees. It will be seen that the king had almost absolute control over the affairs of the colony.

The First Settlement. Jamestown. — The London Company sent out the first colonists under the charter. They were one hundred and forty-three in number. They left the Thames river for Virginia on the 19th day of December, 1606, and were in three ships, the *Discovery*, the *God Speed*, and the *Susan Constant*. Only twelve of the whole number were laborers; the rest were "gentlemen" unused to manual labor. They were totally unfit for the object in hand. They were simply adventurers expecting to make a speedy fortune, then to return to England. No women nor children were in the party, thus proving that they had little idea of the true import of the enterprise in which they were engaged. Christopher Newport had charge of the ships, and Captain John Smith, one of the patentees, was one of the number. In April, 1607, they entered the mouth of the James river. Ascending the river fifty miles they came to a low peninsula, which they unfortunately chose as the site of their settlement. They landed on the 13th day of May, and began a settlement which they called Jamestown. They built a few log houses. The bad water, scarcity of food, and generally shiftless character of the inhabitants, were not conducive to health. Before autumn came, fully fifty of the number had died. Captain John Smith was the only energetic man among them and the only one that had the ability and judgment to strive for better circumstances. He taught them to labor and he laid down the rule that "he that will not work shall not eat." He made himself popular with the Indians and began to trade with them and thus ob-

tained some food. He built fortifications and drilled the colonists as a protection against attack from the natives. In 1609, Newport brought over one hundred and twenty more emigrants, who, like the first, were unfitted for colonists. They had a frenzy for gold-hunting. Smith insisted on having the people cultivate the soil, build houses, and trade with the natives. Had it not been for Smith the colony would have utterly failed. On account of an accident, he left the colony in October, 1609, never to return. In 1609, the London Company, using their ill success as an argument, obtained from the king many of the prerogatives that he had heretofore reserved for himself. Lord Delaware was made governor and captain general. He instituted martial law and thus was able to control the turbulent colonists. In 1611, Sir Thomas Dale was appointed governor, and in March, 1612, the company secured a fresh charter, which gave it more powers of self-government. At the same time, the Bermudas or Somers Islands were added to its domain. Dale now found himself able to rule the disturbing elements. With better government came more and better immigrants. He gave to each settler an allotment of land, and abolished the pernicious communal system. In 1619, when the Liberals in the company, under the leadership of Sir Edwin Sandys and the Earl of Southampton, got control, the colony was granted a representative assembly. The same year, however, negro slavery was unfortunately introduced. In 1622, with the coming of Governor Wyatt, additional political concessions were obtained. By this time the development of sovereignty in the colony, with its free debates and popular government, so offended the arbitrary spirit of King James that he declared Virginia "a seminary for a seditious parliament." The result was that in 1624 the king annulled the company's charter, and Virginia became a royal colony.

Charter Government. — Under the charter of 1606, the gov-

ernment of the colony was directly under the king. He exercised his control through two councils named by himself. The Superior Council resided in England; the Inferior, or Resident Council, in Virginia. All laws passed by the resident council had to be sanctioned by the superior council, and finally by the king.

Governor and Council. — The turbulent condition of the colony requiring a more effective local government, the new charter substituted a governor and a council for the two-headed council of the first charter. By this later plan, the company named, by and with the approval of the king, a governor. This governor called around him an advisory council made up of the chief men of the colony. In the hands of the governor and council, together, were at first lodged the law-making and law-administering functions. They also constituted the highest court of appeal. All their laws, however, were subject to the revision of the company whenever it saw fit to exercise the privilege.

The First Legislative Assembly. — The differentiation of the functions of government is always favorable to the liberty of the subject. Strongly centralized governments are dependent for good government upon the wisdom and moderation of the ruler; and these qualities of head and heart are frequently wanting. On the 13th day of November, 1618, a revised charter was given to the London Company. In it was a provision for a representative legislature. It was the beginning of popular government in America. It was the first direct concession to the people of the principles of self-government. The government of the colony prior to this time resembled a military despotism. The first Colonial Assembly under this new charter met in June, 1619. They gave it the name of the House of Burgesses. Two burgesses or representatives were elected from each of the eleven "plantations" or "hundreds."

In this assembly the governor and council had seats, but their powers, which were heretofore quite absolute, were greatly restricted. That the people were fully conscious of the great and far-reaching consequences of their newly acquired powers, their "briefe declaration," written a few years later, fully attests. In it they quaintly and tersely express the purpose and effect in these words: "That they (the people) might have a hand in the governinge of themselves."

The Virginia County.—In Virginia, and in the southern colonies generally, the English county government was introduced. The English model was pretty closely followed. Many causes in Virginia fostered the growth of the "county" system of local government in preference to the "township" system. The fertile soil encouraged agriculture. The many navigable rivers leading to the sea afforded a river frontage for almost every plantation, and each planter had thus his own wharf for the loading of his own produce. Market towns were unnecessary. Many planters had their own ships and frequently traded directly with England or other countries. There was no stimulus for the growth of towns. Then, too, many of the colonists were descended from the "country gentlemen" of rural England and were familiar with the county type of government. Large estates were the rule in Virginia, and they tended to isolate the settlers. Negro slavery was introduced, and it, too, developed social castes and perpetuated the system of large plantations.

The County Court.—With the development of the county came the county court. This court, besides its judicial functions, had also administrative functions. In 1661, the number of justices was fixed at eight, including the sheriff. They were appointed by the governor, but as he usually commissioned those nominated by the justices themselves, the court became in effect a close corporation composed of the leading

gentry of the county. The court usually met monthly in the county town, four justices being necessary for a legal session. It had limited jurisdiction in both civil and criminal affairs, and had charge of the probate business of the county. It also computed the county expenses for the care of the county buildings, for roads and bridges, and for various other expenses, and assessed the same.

Officers of the County Court. — The court appointed its own clerk, who besides his court duties also performed the duties of county recorder.¹ It appointed the highway surveyors for each precinct of the county, also precinct constables. The sheriff was the executive officer and one of the most important functionaries of the county. “Originally, by a curious arrangement, he himself was a member of the court: the person heading the list of justices first administered the office, and others successively as they held their places in the commission, everyone a whole year and no longer. Later, he was appointed by the governor from a triple number of justices nominated by the county court.”² The county lieutenant was not an officer of the court, but had charge of military affairs.

The Virginia Parish. — The parish system of the English church did not foster the development of the township as the local unit. Each parish had twelve vestrymen, but they were not chosen in town meeting, as the selectmen of New England, although at first this was the custom, but they were given the power to fill their own vacancies and thus they became wholly independent of the people. Whatever effect the church, therefore, had on the political life of the colony was opposed to a democratic or popular government. Its tendency was in the opposite direction, leading, as it did, toward an irresponsible aristocratic oligarchy.

¹ Howard's *Local Constitutional History of the United States*, p. 392.

² Howard, p. 393.

From this brief survey of colonial government in Virginia it will be noted that the "county" and not the "township" system became the type; also that, as the church was a reproduction of the state church in England, its influence was not reactionary on the embryo government, but fostered those features that were most like the home type. As that type was aristocratic rather than democratic, "the dominant idea was gradation of power from the governor downward, not upward from the people."¹ The whole system was centralized, the only leaven being the popular assembly; but still there was individual liberty, and the spirit of English self-government was kept alive. The local government of the colony of Virginia as briefly sketched was not a product alone of the various charters, but was likewise molded and formed after they were set aside in 1624, when Virginia became a royal province.

Maryland

Motive for Settlement. — "At every stage in the history of the American settlement, we are afresh reminded that colonies are planted by the uneasy. The discontent that comes from poverty and financial reverses, that which is born of political unrest, and that which has no other cause than feverish thirst for novelty and hazardous adventure, had each a share in impelling Englishmen to emigrate. But in the seventeenth century, religion was the dominant concern — one might say the dominant passion — of the English race, and it supplied much of the most efficient motive for colonization."²

George Calvert, Lord Baltimore, the originator of the Maryland colony, had been one of the members of the London Company and a councillor in the Plymouth Company. He strongly

¹ Ingle's *Local Institutions in Virginia*, Johns Hopkins University Studies in Historical and Political Science.

² Eggleston's *Beginners of a Nation*, p. 220.

favoured the various colonization schemes. Although a staunch Roman Catholic, he was a favorite of King James I. He was one of the dupes in the scheme to colonize Newfoundland in 1621-1622, and he seems to have believed all the romances told of it. It was given the fanciful name of Avalon, and the whole bleak coast soon blossomed out with such names as the Bay of Pleasaunce, Bay of Flowers, the Harbor of Heartsease, and others equally captivating. But all such roseate advertising failed to make the colony a success. This first attempt of Calvert's did not seem to have much of a religious motive back of it. In 1629, however, he landed at Jamestown with forty Catholic colonists, and being jostled out of there by the Protestants on account of his religion, he seems to have then matured the plan of a colony in which all religions might be tolerated, but more particularly the Catholic. He at once made application to Charles I. for a charter, moved to do so, doubtless, by a "fervent religious zeal." He was doomed, however, never to see his wish gratified. He died on the 15th of April, 1632, before the charter had passed, leaving the planting of Maryland to be carried forward by his son and heir, Cecil. On the 22d of June, 1632, the charter passed the seals in favor of Cecil Calvert.

The Charter of Maryland. — Maryland was a "palatinate," and Calvert, the proprietor, had almost regal powers. It conferred upon him the powers of an "absolute lord of the land and water within his boundaries; he could erect towns, cities, and ports, make war or peace, call the whole fighting population to arms and declare martial law, levy tolls and duties, establish courts of justice, appoint judges, magistrates, and other civil officers, execute the laws, and pardon offenders. He could erect manors, with courts-baron and courts-leet, and confer titles and dignities, so that they differed from those of England. He could make laws with the consent of the free-

men of the province, and in cases of emergency, ordinances not impairing life, limb, or property, without their assent. He could found churches and chapels, have them consecrated according to the ecclesiastical laws of England, and appoint the incumbents."¹ His title was Lord Proprietary of Maryland, and his title and powers were made hereditary in his family.

Still there were limitations to his absolute rule in the colony itself. The machinery of government included a governor and a two-chambered legislature. The lord proprietary appointed the governor and the upper house of the legislature, but the members of the lower house were elected by the people, and in this lower legislative body, in accordance with English custom, all bills for raising revenue had to originate.

St. Marys, The First Settlement.—In November, 1633, Leonard Calvert, brother of Cecil, set sail for America with two hundred colonists. About twenty of this number were "gentlemen" and the others laborers and mechanics. In March, 1634, they founded the town of St. Marys, near the mouth of the Potomac. The colony had been named Maryland by King Charles I., in honor of his Catholic queen, Henrietta Maria.

"At least, there was assigned to the king the responsibility for a name that, like everything else about Maryland, was ambiguous."²

Although Lord Baltimore was a Catholic, many of his colonists were Protestants. Jesuit priests were in the party and had a good influence in many ways. They especially favored humane treatment of the Indians. Toleration in the question of religion was the policy of the proprietor, and at no time did he obtrude his own religious views on his colonists. At that time, it was the fashion to persecute those not of one's

¹ Brown's *Maryland; the History of a Palatinate*, p. 19.

² Eggleston's *Beginners of a Nation*, p. 245.

own faith, hence his leniency is especially noteworthy. In fact, the colony of Maryland was much in advance of the Puritan colonies of New England in this respect. Owing to the harsh laws that had been enacted in England against the Catholics soon after the Gunpowder Plot,¹ Lord Baltimore had every reason to suppose that it would be quickly supplied with settlers from the discontented English and Irish Catholics. But a comparatively small number came over. In fact, the Protestants were a strong party from the beginning. It is well to recognize the "diverse units" when considering the political development of a country. Maryland, while its charter gave it a strongly centralized government, fostered the democratic principle by recognizing the right of individual conscience in questions of religion. And this tolerant spirit united the democratic type of colonist. The first evidence that these old and divergent elements had recognized each other in the young colony was a dispute concerning a prerogative between the proprietor and the legislature. The primary assembly in which proxies were allowed), of its own motion, adopted a code of laws (1635) which the proprietor rejected because he had not been consulted. For two years a deadlock existed. Finally the matter was arranged by the creation of a "representative House of Burgesses, in which, however, individual freemen might also appear." Baltimore was granted at the time a poll-tax subsidy, and the people "reserved to themselves the rights of self-taxation and legislative initiative. The anomalous system of allowing both freemen — of whom there were but one hundred eighty-two in 1642 — and their representatives to sit in the general assembly, continued, with some

¹ This was a plot originated by Robert Catesby, a Catholic of good position, Guy Fawkes, and about a dozen others, to blow up the Parliament House on the day the king was to open the session, Nov. 5, 1605. They were driven to this rash action by the many unjust laws enacted against members of the Catholic church.

variations, until 1647, when the body became truly representative.”¹ In 1650, the legislature of Maryland was divided into two houses, the councillors and others especially summoned by the proprietor sitting in the upper, and the burgesses in the lower, chamber. In 1691, Maryland became a royal province.

Local Government in Maryland; the County. — In the early days of the colony, most of the functions of the local government, which the proprietary or the assembly saw fit to entrust to the people, were bestowed upon the manor and, particularly, upon the hundred. At first the county seems to have been used solely as a judicial district; but from the Revolution onward, it began to gain in importance. Burgesses were first chosen by the electors of the county, in 1654, thus making it the legislative unit. There was a court composed of “commissioners” appointed by the governor which had a limited jurisdiction in civil, criminal, and equity causes; and it also had charge of orphans and their estates. Its administrative functions consisted of levying county taxes, assessing parish rates, fixing parish boundaries, appointing road overseers and constables in the hundreds, and various others. The court had no legislative power. The sheriff, or as originally called, the marshal, was the chief executive officer of the county. He was appointed by the governor or the proprietary. After 1662, the Virginia plan was adopted; the governor appointing from three nominees of the county commissioners. He was the servant of the court, and in addition, tax collector. Up to 1666, he acted as coroner, but in that year coroners were appointed for each county. In addition to these officers there was a county clerk, also a “commander” whose duties were, doubtless, similar to those of the Virginia lieutenant, but the office seems to have been of far less importance.

¹ Thwaite's *The Colonies*, p. 83.

The Hundred in Maryland. — The Hundred was probably the first local division established in the province, and before the first county — St. Marys — was erected, several hundreds had been organized.¹ In the assembly of 1639, representative burgesses were seated from the hundreds, thus making it the unit of representation. It remained the election district until 1654, when the commissioners of Cromwell substituted county representation. No definite number of burgesses was assigned to each hundred, although each had one or more. The hundred was also the fiscal unit, and direct taxes for the support of the general government were apportioned among the different hundreds. The method of taxation was simple, as the tax was imposed almost exclusively upon individuals, or polls, as in Virginia. The high constables were required to make a census of the taxables, then the levy for the entire province was made by a commission consisting of one or more representatives from each hundred. These commissioners were elected by the people. At an early day, the hundred became the militia district, and its military company was commanded and disciplined by officers appointed by the governor in council. The assembly of freemen in each hundred seems to have had the power to enact and enforce local ordinances relating to the common safety. The High Constable was the most important officer of the hundred. "He was originally appointed by the governor, later by the justices, and performed a variety of duties." Other officers were the "commander" or military chief, the tobacco viewer, the tax assessor — who was the only elective officer — and the road overseer. The hundred as thus explained was a living organism and had some self-governing functions. After the Revolution, the hundred fell into decay, and in 1824, the organization became entirely extinct.

The Maryland Manor. — Many Manors were erected in

¹ Howard's *Local Constitutional History*, p. 275.

Maryland. They consisted of large tracts of land, like the patroon estates in New York. "They were self-governing local bodies, but were responsible to the proprietary." They had a sort of town meeting wherein they elected certain officers and tried petty offenses. This was called the court-leet. The court-baron, which was even more like the town meeting in many of its functions, was also a feature of the manor. The free tenants took part in both of these local assemblies.

The Parish of Maryland. — The Maryland Parish, which became an institution of the colony in 1692, when the protestant Episcopal church was first established, exercised chiefly ecclesiastical functions, although the vestry and wardens appointed the tobacco inspectors. Still the parish was insignificant as a means of local government.

The Carolinas

North Carolina. — In 1653, a small colony of Virginians, dissenters from the Church of England and harassed by it, led by Roger Green, planted the colony of Albemarle, the first permanent settlement in what is now North Carolina. The Clarendon settlement on the Cape Fear river was made in 1663 by West India colonists under the leadership of Sir John Yeamans. These two settlements were three hundred miles apart. In 1663, Charles II., regardless of these infant settlements, even if he was aware of their existence, conferred the territory on a number of his favorites, among whom were the Earl of Clarendon, the Duke of Albemarle, the Earl of Shaftesbury, and Sir William Berkley, then governor of Virginia. William Drummond, a Scotch colonist in Virginia, was made governor of Albemarle, while Yeamans remained governor of Clarendon, these two districts roughly corresponding to the North and South Carolina of to-day. Samuel Stephens succeeded Governor Drummond in 1667. The Lords Proprietors secured

a charter in 1665 which greatly enlarged their bounds. Stephens was assisted by a council of twelve, whom he appointed when the proprietaries did not choose them. They constituted the upper house of the assembly. The lower house consisted of twelve men chosen by the people. This first legislature met in 1669.

Locke's Scheme of Government. — The Lords Proprietors, in 1669, engaged the famous philosopher, John Locke, to prepare a constitution for them. The result was a scheme of government known as the Fundamental Constitution, which proved to be wholly unsuitable. It is only interesting as a philosophical curiosity. The plan was aristocratical and feudal and a step backward. He divided the province into counties, and they were divided into seignories, baronies, precincts, and colonies. He divided the people into four estates, proprietaries, landgraves, caciques, and commons. He defined "political power to be the right of making laws for regulating and preserving property." He sought to make a government that would suppress the spirit of democracy and that would keep the tenants subject to the Lords Proprietors. The common people could never be anything else, as he decreed "the children of leet-men shall be leet-men, and so to all generations." It is unnecessary to say that no very serious attempt was made to put it in operation. The sturdy colonists had no use for it. It only caused unrest and turbulence in the colony. The northern colony became especially lawless, so that the proprietaries left it to take care of itself for a decade. Both colonies were ruled by governors and assemblies, and these two departments of government were constantly quarrelling. The spirit of local government was in the people and the proprietors could not repress it.

The Precinct as the Political Unit in North Carolina.¹ — By

¹ Howard's *Local Constitutional History*, p. 129.

the constitution of Locke, the county of Albemarle, which was all of North Carolina at this time (1669), was divided into four precincts. When other counties were formed, they were also divided into precincts. In this way, the precinct became the first political unit of the province. The counties, so-called, had no political significance; they were merely geographical areas. The precinct, however, was practically a shire or modern county, with judicial and other administrative functions. In fact, after 1738, the name "county" was substituted for precinct. The early precinct had a court possessing limited criminal and civil jurisdiction. This court probated wills, appointed guardians, and could grant administration of estates, but all letters of administration and all letters testamentary were signed by the governor. The processes of the court were served by an officer who was at first called the provost marshal, but later the name was changed to sheriff. The court also had a clerk. It appointed constables and highway overseers. The precinct had also representation in the assembly.

The North Carolina Parish. — Up to 1715, there was no legal foundation for the Church of England, nevertheless, parishes were in existence. After that time, some of the precincts were divided into parishes. The rectory consisted of eight or nine vestrymen, in whom the entire authority of the parish was centralized.

It named the churchwarden and the clerk, exercised the right of taxation, and appointed the collectors of the levy; erected churches and kept them in repair. Owing to the great number of dissenters, the machinery of the parish exercised little political influence in North Carolina as compared with South Carolina.

South Carolina; the Parish. — In South Carolina, the county in colonial days was little more than a territorial designation.

This is especially true of the "low" or coast country. The counties were divided into parishes. In each parish there was a vestry composed of the rector and seven or nine vestrymen; the latter being elected annually by the freeholders. The vestry laid and assessed the taxes, which were collected by the constables on a justice's warrant. In time, the parish became the political and constitutional unit. It was the unit of representation in the assembly. When assemblymen were elected, the churchwardens were *ex officio* "managers" of the elections. It also constituted a constable's district, but those officers were nominated by the court of general sessions. The parish, through overseers appointed by the vestry, had charge of the poor. There were road commissioners for each parish who were either elected by the freeholders or appointed by the assembly. The "back" country, in 1768, was divided into districts, each with its sheriff and court-house. The sheriff after a time was chosen by the district. The parish system of the "low" country and the district system of the "back" country could not agree on a fair distribution of the offices and there was constant dissatisfaction. It was not until 1868, when the state was divided into counties, that there was complete harmony. In 1720, a royal governor was sent to Charleston; and in 1729 the whole province was purchased by the crown, and separate royal governors were appointed for the two colonies.

Georgia

Georgia, the last to be founded, of the original colonies, had a "half philanthropic and half military" motive behind it. James Oglethorpe, its founder, had been an army officer, and a member of parliament. Becoming interested in domestic reforms, his attention was drawn to the terrible condition of the debtors' prisons. The terrible revelations stirred him so that he formed a company (1732) of wealthy and benevolent

men for the purpose of founding a colony for this unfortunate class, who would thus be given a chance to make a new start in life. The military purpose behind it, was to check the northern expansion of the Spanish colony in Florida and to keep back the Indians.

The Charter of Georgia. — The company was given a charter under the name of "The Trustees for establishing the Colony of Georgia in America," its land grant extending from Savannah to the Altamaha. There were at first twenty-one of these trustees and they had full control. By the provisions of the charter, there was a president of the corporation. The annual meeting was in March, at which time new members could be added by election. There was also an elective common council with a chairman of its own. At this annual meeting, laws were enacted for the government of the colony. To the common council was given the power of appointing the various officers of the corporation such as the governor, judges, magistrates, ministers, and officers, civil and military. All persons except Catholics were given the free exercise of their religion. In 1752, Georgia became a royal province.

QUESTIONS

1. What causes led to the settlement of Virginia? When?
2. Why is it important to know the motive for the settlement of a colony? Were the motives of the promoters of the Virginia colony economic, political, or religious?
3. Give a brief account of the charter of 1606.
4. In what way was the principle of centralization illustrated in this charter?
5. Where and when was the first settlement made?
6. Did these first settlers represent any economic, political, or religious ideas? Were they true colonists?
7. Describe the first three years of the life of the colony.

8. What favorable tendency can be noticed in the charters of 1609, 1612, 1618, respectively?
9. What makes the charter of 1618 especially memorable?
10. Give reasons of your own for laying great stress on the creation of a legislative assembly.
11. What evidence have we that the people were aware of the great value of the innovation?
12. What geographical area became the political unit in Virginia? Give some reasons for it.
13. What functions had the county court?
14. In what way did the court become a close corporation? When did it meet?
15. What jurisdiction did it have in civil and criminal affairs?
16. What were its administrative duties? Do courts perform such functions to-day?
17. What were the officers of the court, and by whom appointed?
18. Who was the Lieutenant, and what were his duties?
19. What influence did the parish of the English Church have in fostering the growth of the township as a political unit? Why?
20. What was the dominant idea of government in Virginia during its early colonial life? Were the political tendencies progressive or reactionary? Why?
21. When did Virginia become a royal province?
22. What circumstances indicate that colonies are planted by the "uneasy"?
23. How does this statement apply to Maryland?
24. Who was the originator of the Maryland colony? Who planted it and what was the motive?
25. What do you know of George Calvert?
26. Describe the Maryland charter. What is meant by a "palatinate"?
27. Was the government of Maryland centralized?
28. What were some of the powers conferred on the Proprietor?
29. What limitations were there to his absolute control?
30. When was the first settlement made? Where?
31. What was the character of the colonists? What induced the Catholics to leave England?
32. What was the policy of the Proprietor on questions of religion?
33. Mention some of the differences that arose between the Proprietor and the legislature. How was the legislature chosen?
34. Prior to 1647, in what particular was the legislature not truly representative? Are all legislatures representative?

35. When was this legislature divided into two houses?
36. What was the political unit in Maryland in the beginning?
37. What was the status of the county in those early days?
38. What was the commissioners' court? What were its functions?
39. By whom was the sheriff chosen, and what were his duties?
40. Name other county officers.
41. What was probably the first local division established in Maryland?
42. During what period of time was the hundred the legislative unit?
43. What other circumstances indicate its importance as a political unit?
44. What was the most important officer of the hundred?
45. When did the hundred become extinct?
46. Give a history of the Maryland manor. Parish.
47. Compare the colonial government of Maryland with that of Virginia.
48. Explain the origin of the settlement of the Carolinas. Describe the first settlements.
49. Name some features of the charter of 1665.
50. Who was the author of the Fundamental Constitution?
51. What criticism do you make of Locke's scheme of government?
52. Name some of the leading features of his plan.
53. What was the status of the common people in his plan?
54. What was the first political unit in North Carolina? To what geographical area did it correspond?
55. What were the functions of the precinct as a political unit?
56. Describe the precinct court.
57. Name the officers of this court.
58. Describe the North Carolina parish.
59. What can you say of the South Carolina county?
60. Describe the South Carolina parish.
61. In what respects was it the unit of government?
62. Compare the governments of the Carolinas.
63. What motives caused the settlement of Georgia? When?
64. Briefly describe the government as outlined in its charter.

SECTION 2. — THE NEW ENGLAND COLONIES

Massachusetts

At the same time that the London division of the Virginia Company was planting the colony of Jamestown, the Plymouth division of the same company was vainly trying to plant colonies on the more inhospitable coast of North Virginia. In 1614, John Smith, the man who did so much for the colony at Jamestown, after five years of quiet life in England, made a voyage to North Virginia as the agent of some London merchants. On his return he gave the title of New England to that coast. In 1620, Sir Ferdinando Gorges and others secured a new and independent charter for the Plymouth Company, known as the Council for New England. The grant included the country between the fortieth and forty-eighth degrees of latitude — from about Long Branch, N. J., to the Bay of Chaleurs. There were forty patentees in this company, and their sole motive in forming it was to develop a commercial enterprise that would pay dividends. They would doubtless have waited for many years for permanent colonists, had not the religious persecutions of James I. aided them. In 1608, these persecutions were so harassing to that branch of protestants known as Separatists or Independents that several hundred of them went to Holland. They lived there in peace for eleven years, still they were not satisfied, and after a time they decided to emigrate to America. Many of their friends in England joined with them in this plan. As they intended to settle on territory of the London Company, they obtained a grant of land from that company. Sir Edwin Sandys, a member of the London Company, and a liberal and enlightened English statesman, greatly aided the Pilgrims, as they now called themselves, in securing a charter. The patent given to the Pilgrims was a liberal one, and the general order that accompanied it allowed

the leaders of the plantations "to associate the sober and discreet, to make laws, orders, and constitutions not repugnant to the laws of England."¹ It will be noted later that this democratic principle was the very essence of the "compact" of which so much has been said.

Plymouth, 1620. — The settlement at Plymouth was the oldest permanent one in Massachusetts. The colonists were religious refugees calling themselves Pilgrims. As stated in a foregoing paragraph, many of them had lived for eleven years in Holland, and their children had grown up more Dutch than English, in language and customs. The fact that they secured a charter from the London Company rather than from the Northern Company, shows that they did not have the New England coast in mind. They started for the valley of the Delaware or Hudson, and may have been intentionally taken to Massachusetts by the captain of the *Mayflower*, who, it is said, was bribed by the Dutch not to bring them to New Amsterdam. There were one hundred colonists in the *Mayflower*, all exiles from home because of the religious bigotry that insisted on uniformity in questions of religion. In their efforts to find a place where they could worship God in the light of their own consciences, they founded a new nation; a nation that stands for a higher and nobler type of individual liberty than the most enlightened of the Pilgrims ever dreamed of founding. The Pilgrims, unlike the Puritans of the Bay Colony, believed in the separation of church and state.

The Compact. — When they found themselves on the bleak coast of New England, instead of within the territory of the London Company, they had to face unexpected conditions. They chose the cleared hills of Plymouth as their place of settlement, but before landing they wisely drew up a framework of government. This was now necessary, as their charter

¹ Eggleston's *Beginners of a Nation*, p. 173.

from the London Company was invalid, for they were not within its territory. The civil Compact to which forty-one of the adult males of the company affixed their names, was a remarkable document for the reason that it was practically the first formulation, in a concrete way, of the principles of popular government. That its principles originated in the cabin of the *Mayflower*, as poets, painters and orators have it, is not now believed. "The Earl of Southampton, the Ferrars, Sir John Danvers, and above all and more than all, Sir Edwin Sandys, were the fathers of representative government in New England by the charter of February 2, 1620 (to the Pilgrims), as they had been of representative government in Virginia by the charter of November 13, 1618."¹ The wisdom of the Pilgrims is shown in the fact that they adopted in the Compact the democratic principles set forth in that charter. Other features of the government of this little colony have exerted a marked influence on our national life, so that it may justly be called the corner-stone of the nation.

Early Government of Plymouth. — The original signers of the compact were styled freemen of the colony; and they, with such persons as the majority of the whole number of the freemen admitted from time to time, constituted the voting population. In 1658, they voted not to admit Quakers as members of the association. In 1671, freemen were required to be twenty-one years of age, of sober and peaceable conversation, orthodox in the fundamentals of religion, and possessing at least twenty pounds ratable estate within the colony.

The Governor and Assistants. — A governor and five (afterwards seven) assistants were annually elected by the freemen. They constituted the executive department. A meeting of the governor and assistants was called a Court of Assistants. When all the freemen met together they were called the General

¹ Eggleston's *Beginners of a Nation*, p. 173.

Court. Laws were made by the general courts, and both bodies exercised judicial functions. In the Plymouth code, as revised in 1636, we have the first formal intimation of the separation into towns, and in 1638, the representative system was established. There were now eight towns, and from each two freemen were chosen as deputies who were to act with the governor and assistants as a legislative body. Plymouth chose four deputies. The whole body of freemen still annually elected their officers. Their frame of government was again revised in 1671, when they withdrew from the general court its judicial functions, vesting them in a court of assistants which was to sit at Plymouth at least three times a year, and which was to decide all capital, criminal, and civil cases. In addition to this supreme body, there was chosen in each town a body of selectmen who were given the power to try all civil causes of debt, trespass or damage, not exceeding forty shillings. Appeals lay from this local court to the court of assistants. In 1685, counties began to be formed, in each of which two annual courts were held by magistrates. In 1692, Plymouth was united with Massachusetts.

The Massachusetts Land Grant.—In 1628, the Plymouth (England) Company granted a patent to six persons for a strip of land about sixty miles wide along the coast, and extending from three miles south of the Charles river to three miles north of the Merrimac, and westward to the Pacific ocean. In September of the same year, John Endicott, one of the patentees, arrived at Salem with sixty persons. Roger Conant, a Plymouth man, had already made a settlement at this point, which was known as Naumkeag, and he had been induced to stay on the promise of the Puritan settlers coming to him. The Endicott party was therefore expected. While the colony had its inception in a movement to afford an asylum in America for the Puritans who were being grievously persecuted by

Charles I., the patentees organized as a trading company in the spring of 1629. They secured a charter from the king in which the corporation was styled the Governor and Company of the Massachusetts Bay in New England. Although a trading company, its principal object was not gain, but to found a religious commonwealth. The popularity of the plan was proven by the fact that so many people came over almost immediately that Salem could not contain them all, and it became necessary to divide. Independent congregations were therefore established on the Salem model, at Charlestown, Cambridge, Watertown, Roxbury, and later at Boston, which latter settlement became the capital of the colony in September, 1630. The marked feature of this development was the multiplication of independent congregations, each of which was the nucleus of the town. In this way, the town became, as in Plymouth, the local unit of government, with the church as the heart and center of the system. What was true of the Massachusetts Bay colony was for the most part afterwards true of Plymouth and of all the other New England colonies.

Early Government of Massachusetts Bay. — The charter provided for the annual election of a governor, a deputy governor, and eighteen assistants. The company could admit new members, and transport settlers to the colony. Four times a year, there was to be a meeting of the entire company, known as the "Great and General Court," at which new members were admitted, laws made for the government of the company and colony, and, once a year, officers chosen. The company had its first meetings in England, but after a time the charter was brought over to the colony, which then became a self-governing state. Only members of the company were given citizenship. Very early, it was enacted that no person could become a freeman unless he were a member of some church within the colony; and this provision remained in force until 1664.

Administration of Government. — The executive and judicial functions were entrusted to the governor and assistants, sometimes called magistrates, who held monthly meetings called assistants' courts. The whole company, when assembled in general court, chose officers, made laws, and exercised judicial functions.

Representation. — In 1634, representatives began to be chosen by the towns, who were to act with the magistrates in the capacity of a legislature. The magistrates and representatives formed the general court for legislative business. For ten years they sat together, but voted separately. Every law had to have a majority vote of each body, and each had a "negative" on the other. After 1664, and for many years, the bodies were separated. In the early years of the colony the colonists all met together to hold their elections, but as the population increased, they met in their respective towns and voted, and then sent their votes to the general court to be counted. The town thus became the legislative unit. Counties were not organized until 1643, and then chiefly for the better exercise of judicial functions.

Judicial Affairs. — The judicial business of the colony "was conducted by the court of assistants and by the general court." In several of the towns, as Salem, Ipswich, Cambridge, and Boston, quarterly courts were established which were held by the resident magistrates and persons appointed by the general court to act with them. The jurisdiction of these quarterly courts extended to all civil cases involving not more than ten pounds, and all criminal cases not concerning life, member, or banishment. Appeals lay to the great general court. "In 1638, still lower tribunals for the ending of small causes, not to exceed twenty shillings, were established. These were held either by a single magistrate, or, in towns where no magistrate dwelt, by three commissioners appointed by the

general court, any two of whom were authorized to act. Appeal lay to the quarter courts or Court of Assistants.”¹ The four quarter courts established in 1636 were the germs of the county courts of 1643. In this latter year, the four shires or counties of Essex, Middlesex, Suffolk, and Norfolk were formed. These shires practically included the judicial territory of the four quarter courts, and the latter were henceforth called county or shire courts. The magistrate, with two associates, elected by popular ballot, constituted this court. After 1674, four, instead of two, associates were elected. In 1691, following the English model, the criminal jurisdiction of the county court was transferred to the “quarter sessions” or, as it was subsequently called, the “general sessions of the peace.” The county court could exercise probate, and grant letters of administration; construct bridges, lay out highways, and fine town road surveyors for neglect of duty; admit freemen subject to the approval of the general court; appoint commissioners to solemnize marriages; license clerks, retailers of liquors, and perform many items of business. It is interesting to note that the towns were subordinate to the authority of the county court in many particulars. The court could impose fines on assessors and selectmen of the town for neglect of duty. It could also appoint assessors on the failure of the towns to do so; could supply ministers, and provide for their proper maintenance when necessary; and on petition or presentment, compel towns to pay the minister’s salary. Towns were often fined for disregard of the laws requiring them to maintain stocks, provide weights and measures, and employ schoolmasters. The county court had the right to approve or disapprove the by-laws of the towns. These powers of court indicate that, after the county system had begun to grow, the town was not altogether absolute in the management of local affairs, even in Massachusetts.

¹ Howard, p. 323.

Officers of the County Court. — The officers of the county court were the marshal, superseded after 1791 by the sheriff, and the clerk. The latter was also *ex officio* recorder of the county. At first both of these officers seem to have been appointed by the court, but by the charter the nomination of the sheriff was vested in the governor.¹

Puritan Legislation. — The Puritan settlers of Massachusetts Bay, unlike the Pilgrims, believed that the civil magistrates had authority in matters pertaining to religion and the church, and they made the Congregational the established church of the colony, and it remained so until 1835.² They even made the state subordinate to the church. This fact must be understood if the student desires to understand the motive for much of their legislation. They restricted suffrage to church members; they compelled church attendance; they passed laws to prevent what they considered erroneous religious views; they endeavored to make people moral by means of rigorous laws. Other New England colonies copied the harsh laws of Massachusetts. Charles II., who, like his father, had no love for the Puritans, now began a series of measures to check the spirit of independence that was growing up in the colony. Among other things, he commanded that the Episcopal form of worship should be tolerated, and that the rights of freemen should not be restricted to church members. The colonists, true to their Puritan traditions, resented kingly tyranny, and refused to obey. A bitter quarrel arose, resulting at last in an extension of suffrage to those who were orthodox in religion, even if not church members. At length, in 1684, the king's officers declared that Massachusetts had forfeited her charter, and measures were at once taken to send out a royal governor, but the death of the king prevented.

¹ Howard, p. 339.

² Hart's *Formation*, etc., p. 260.

James II. and Massachusetts. — In 1686, James II. appointed a president, deputy president, and sixteen councillors to have complete executive and judicial control over Massachusetts, New Hampshire, and Maine. There was no provision for an assembly. Sir Edmund Andros became the governor, and he began to carry out the arbitrary measures of King James.

Andros Government. — The council, with the governor, were empowered to make laws subject to the royal sanction, to levy taxes, to establish courts of justice, to regulate trade and currency, and to reprieve and pardon. New York and New Jersey were also made a part of the governor's domain, with Boston as the capital. Popular government, which under the old charter had secured a foothold in Massachusetts, was thus for a time overthrown, and a strongly centralized form was substituted. In other words, there was a reversion to the old principle of might, which until this century has always been the dominant governmental idea. Education is the St. George that is gradually slaying this dragon of the ages.

English Revolution of 1689 and its Effect on the Government of Massachusetts. — With the accession of William and Mary to the English throne, the so-called Province charter was secured, and Massachusetts, Plymouth, Maine, and Nova Scotia were united under one government. Its terms were much more liberal than was possible under Andros, but still the people were deprived of that virtual independence of the crown which they had so long enjoyed under the old charter.

Some of the Changes Made by the Province Charter. — A governor, a deputy, and secretary were to be appointed by the king. "A house of deputies, chosen, as before, by the towns, and a council of twenty-eight members, appointed at first by the king, afterwards by the general court, formed the legislature. The governor was commander of the militia, and appointed all military officers. The choice of councillors was

subject to his sanction. With the consent of the council he appointed all judicial officers. The general court was to assemble on the last Wednesday of May, and the governor could convoke, adjourn, or dissolve it. This dangerous power was afterwards used against the people when they were preparing for the Revolution. All acts passed by the deputies and council had to receive the approval of the governor to become law, and then be sent to England for the approval of the king's ministers."¹ The general court established a new judiciary system. There was now a superior court, and in each county a court of common pleas, justices of the peace, and a court of sessions. The justices of the peace constituted this court, which held appeals from the justices' courts, and had charge of some miscellaneous county business. The basis of suffrage was changed, and a freeman, in order to vote, had to possess a freehold worth twenty pounds sterling a year, or personal property worth forty pounds. This charter went into operation in 1692, and from that time until the Revolution, Massachusetts and Plymouth continued a royal province subject to such governors as the king of England chose to send. They thus lost the privilege of self-government which they so long enjoyed under their first charter.

Connecticut

About 1635, settlers from the vicinity of Boston emigrated to the Connecticut river, and located themselves at Windsor, Wethersfield, and Hartford. They based their title to the territory on a grant from the council for New England to the Earl of Warwick, who deeded it to the Connecticut colonists, of whom Lord Say and Seal was the first named. A number of detached settlements were made within the limits of this grant, which extended westward from the Massachusetts river. The settlers in the above named towns believing themselves

¹ Martin's *Civil Government*, p. 87.

within the territory of Massachusetts, eight of the prominent men accepted a commission from its General Court, to govern the colony for one year.

The First Written Constitution. — In January, 1639, the three towns adopted a constitution in which Massachusetts acquiesced. This Connecticut constitution is said to be "the first written constitution known to history that created a government," the *Mayflower* Compact being more of an agreement than a constitution. It was framed at Hartford by all the free planters of the colony. It made no reference to the king or to any charter or patent. It provided for a governor and six magistrates, who were to be elected by a majority of the whole body of freemen. As the colony spread, voting by proxy was allowed. The governor alone had to be a church member, and he could not serve two years in succession. There were two separate annual meetings of the general court; one for the election of governor and magistrates, and the other for legislation, but when assembled for that purpose, only the governor and magistrates, together with two deputies from each of the original towns, and from new towns according to the population, were members of the body. The governor could convoke the legislative assemblies, but it required a majority of all the members to adjourn or dissolve them. After a time, the deputies formed the lower house, and the council, the upper.

There were no religious restrictions on suffrage. The judicial powers were in the hands of the magistrates.

Towns in Connecticut. — In the same year that the constitution was adopted, each town was empowered to dispose of its own land, to choose its own officers, and to manage its own local affairs. In each, three, five, or seven men might be chosen annually who should have power to decide all controversies when the amount at issue did not exceed forty shillings. A town clerk was also chosen. The town system, as in Massachusetts, had its growth around the church.

The New Haven Colony. — An independent settlement was made, in 1638, at New Haven, by a company from England under the lead of John Davenport and Theophilus Eaton. This was a wealthy society, and they were so well disposed toward one another that they had no need, for the first year, of any civil, military, or ecclesiastical authority. At a town meeting then held, it was agreed that church members only should be freemen, and they alone should choose magistrates. They then elected twelve men, who of their own number chose seven to begin the church. "These seven, called pillars, formed the church out of such individuals as they saw fit. They also sat as local magistrates, and tried petty cases. The church so formed, with such members of other churches as desired, constituted the body of freemen; and they elected a governor and four magistrates. Legislative or judicial business was transacted both by the magistrates, and by the general court of all the freemen."¹ In the settlements that were soon after made at Milford, Guilford, and Stamford, the New Haven model was followed.

In 1643, these four towns united, adopting a form of government quite similar to that in the Connecticut colony.

Charter Government. — In 1662, a charter was obtained from the king incorporating nineteen persons from Connecticut, with such associates as they might elect, under the title, "The Governor and Company of the English Colony of Connecticut in New England in America." The territory in this grant included the New Haven colony, and that formerly given to Warwick. This charter was very obnoxious to the people of the New Haven colony, because it deprived them of their separate existence, and it was not until 1665 that they acceded to its terms. It, however, proved to be such a democratic form of government, and was so acceptable to the people, that it

¹ Martin's *Civil Government*, p. 93.

formed the only constitution of Connecticut until 1818. It provided for a governor, deputy governor, twelve assistants, and a house of deputies composed of two members from each town; all elected annually by the freemen.

County Courts. — After the union of all the towns, in 1665, county courts were first instituted in Connecticut, and in the following year the extent of the four counties was definitely settled. The court was a gradual growth, finally consisting of several of the town "commissioners" or county justices of the peace, and one or more magistrates appointed by the general assembly. It had jurisdiction in all criminal actions except such as involved life, limb, or banishment, and in all civil causes, but those for more than twenty shillings were tried by jury. Appeal lay to the Supreme Court, consisting of at least eight magistrates. The creation of the county court marks the actual beginning of the county as a political unit in Connecticut. Almost the first step in the evolution of the New England county was the one making it the judicial unit. In Connecticut, it was also the higher military unit.

Suffrage. — Any one, twenty-one years of age, owning real estate to the amount of twenty pounds, and recommended by the selectmen of his town as of honest, civil, and peaceable conversation, was granted the right of suffrage.

Rhode Island

In 1636, Roger Williams, with five of his disciples, being driven from Massachusetts as a dangerous reformer, established the town of Providence at the head of Narragansett Bay. The following year a party of Anne Hutchinson's followers, also driven out of Massachusetts for heretical opinions, settled on the island afterwards known as Rhode Island, eighteen miles south of Providence. Mrs. Hutchinson joined them in

1638, and the town was finally called Portsmouth. In 1639, Newport was settled by dissenters from Mrs. Hutchinson's new heresies. Notwithstanding their differences, the two towns united in 1640 under the name of Rhode Island. In these towns the civil business was transacted in town meetings. After a time, a judge and elders were chosen. The duties of the elders corresponded with those of the selectmen in other colonies. Provision was also made for trial by jury — an English right which the Connecticut colony at first rejected as unscriptural. After the union of the two towns, a general government was established, consisting of a governor, deputy governor, and assistants chosen annually by the freemen.

Early Government of Providence. — The Providence agreement signed by Roger Williams and twelve of his sympathizers was as follows: "We, whose names are hereunder, desirous to inhabit in the town of Providence, do promise to subject ourselves in active or passive obedience to all orders or agreements as shall be made for the public good of the body, in orderly way, by the major assent of the present inhabitants, masters of families, incorporated together into a town fellowship, and such others as they shall admit unto them, only in civil things." This limitation of the civil authority to "civil things" is characteristic of all the legislation of this colony. In 1640, it was determined to choose five freemen called "disposers" to attend to the general business of the town. They held monthly meetings, and every quarter they made report of their trust to the town. Instead of making these five men judges, like the selectmen in other colonies, all private disputes had to be settled by arbitrators chosen by the parties to the quarrel, or, if they refused, by the "disposers." At the request of any citizen who was dissatisfied, special town meetings could be called. "This was the most completely democratic government in New England. In fact it was too democratic to work

successfully. It allowed too much liberty to individuals, and gave too little authority to the community.”¹

Rhode Island Charter. — The first attempt to unite the three towns was made in 1644, when Williams obtained a charter from parliament. Under this charter, they were empowered to adopt such form of government, and to choose such officers, and make such laws, as they saw fit. This attempt at union failed.

In 1663, Charles II. gave them a charter which was much more explicit. It gave to the people the most perfect liberty in the election of officers and in legislation, and it established complete religious toleration. It provided for a governor, deputy governor, and assistants, who were to hold courts at Providence and Newport for judicial business. Deputies to the general court were chosen by the towns. These deputies, with the magistrates, formed the legislature. This charter formed the only constitution of Rhode Island until 1842.

Rhode Island County. — As in New England generally, the county first appears in Rhode Island as a judicial unit. In 1703, the first two counties were incorporated, each with a court of common pleas. In 1729, the whole colony was divided into three new counties, and the judiciary was also remodeled by giving to each county two courts: the general sessions of the peace for criminal actions, in which the county justices presided; and the court of common pleas for civil cases, which was held by four judges appointed by the assembly. The fact was that both courts had the same judges, as the assembly chose the “four” from the county justices of the peace.

New Hampshire

In 1622, Gorges and Mason secured a grant of land lying between the Merrimac and the Kennebec, the ocean and the

¹ Martin, p. 95.

river of Canada, from the Council for New England. The next year, a few persons under their direction settled at Portsmouth and Dover. These were joined a few years later by some disaffected people from Massachusetts. There was much contention among the different claimants to the soil.

Prior to 1640, Exeter was settled by a congregation from Massachusetts which at once formed a church and set up a form of government. Hampton was also settled, but under the authority of the general court of Massachusetts, and it was empowered to act as a town, and to send a deputy to the legislature. Massachusetts claimed the territory occupied by these four towns, and in 1641, some of the patentees of Dover and Portsmouth ceded to Massachusetts the jurisdiction over their territory. In 1643, Exeter was received under the jurisdiction of Massachusetts, which colony gladly accepted the different grants, and she administered the government. Suffrage was given to all persons who were freemen before the union, and they were allowed to hold office. Church membership was not necessary in order to exercise these privileges. They also sent two deputies to the general court. In 1643, the county of Norfolk was organized. It included all the towns north of the Merrimac. The town government followed the Massachusetts model.

New Hampshire as a Royal Province. — In 1679, New Hampshire was separated from Massachusetts, and was declared a royal province. The king appointed a president and council. These persons had judicial functions, and they, together with deputies chosen by the towns, acted as a legislature. At the first meeting after the new government was organized, a very liberal code of laws was framed, in which they set forth that "no act, imposition, law, or ordinance should be made, or imposed upon them, but such as should be made by the assembly, and approved by the council." A harsh and oppressive gov-

ernment soon supplanted the other, and a new governor was appointed who had the powers of a tyrant. He could adjourn or dissolve the assembly at his pleasure, could appoint all the judges and military commanders, and could remove members of the council. When Andros became governor of Massachusetts, New Hampshire was made a part of his domain. With the accession of William and Mary, it was again (but only for a brief time) reunited to Massachusetts. In 1691, New Hampshire was again placed under a governor and council appointed by the crown. There was also an assembly made up of deputies from the towns. During most of the time, up to the Revolution, Massachusetts and New Hampshire had the same royal governors, who usually lived in Boston. The smaller province was governed by lieutenants.

Maine

The grant of land made in 1622, by the Council for New England, to Mason and Gorges, out of which grew the colony of New Hampshire, also included the territory that was afterwards known as Maine. In 1629, Mason obtained an individual grant for the territory between the Merrimac and Piscataqua; and Gorges, for the territory between the Piscataqua and the Kennebec. This latter grant to Gorges became, later, Maine. In 1639, Gorges obtained a provincial charter from the king, which conferred upon him the title of Lord Proprietor of the Province or County of Maine. He was given almost absolute authority. There were probably three hundred people in his province at that time. Saco (1628) was the principal settlement. Most of his settlers favored the established church, and adhered to the king. Gorges planned a fanciful government for his colony. He gave his freemen voice in the making of the laws, made the church of England the state church, provided for the creation of manorial courts,

reserved for himself, as Proprietor, the right to levy taxes, raise troops, and declare war. As he never visited America himself, he provided for a deputy governor, and under him a council, with whom the deputies elected by the freeholders were to meet and make laws. He cut up the province into counties, hundreds, parishes, and tithings. His son Thomas, as deputy governor, failed to carry out his father's plans, and the province sank into disorder and neglect. Its towns were finally absorbed by Massachusetts in 1652-1658. In 1691, there was a permanent union of Maine and Massachusetts, under the already described "Province Charter," and from that time until 1820, the history of Maine is merged in that of Massachusetts.

The New England Town Meeting

The one unique feature of the government of New England that has had paramount influence for good in the evolution of the government of the United States, is the town meeting. In an early chapter we have referred in a brief way to the town meetings held by our Saxon ancestors; we shall now devote some space to the New England type which is simply a manifestation of the ancient democratic assembly. There is no better example of history repeating itself than in the way the Puritans of New England, consciously or otherwise, reproduced, after it had lapsed as an efficient institution for almost a thousand years, this ancient safeguard of popular rights. What shall be said here will be drawn largely from *Local Constitutional History of the United States*, by Howard. The town meeting had supreme control of the affairs of the community, and it was equally influential in every part of New England. It was the mouthpiece and administrative machinery of the town, and the town, not the county, was the political unit. It will be remembered that in Virginia and the South generally the county, or its prototype, was the political unit.

New England and Virginia, respectively, stand for two distinctive types of local government, and when we come to study the Middle States, we will learn, as we have before stated, that they represent still a different type — a compromise or a mixed system known as the “township-county” system. Out of these three forms of local government has grown all the diversity found in the different states. The town meeting is, therefore, peculiar to the town system of government. Originally, all male inhabitants of legal age were qualified to share in its deliberations. “Non-proprietors as well as proprietors, newcomers as well as old, could vote and hold office; and these rights were enjoyed by inhabitants of the town, though not regularly admitted as freemen of the jurisdiction.”

The people were assembled by the constable under authority of the selectmen’s warrant. In the early days, fines were imposed for absence. When the people were duly assembled, they at once organized by electing a presiding officer called a moderator. The town clerk was *ex officio* secretary of the meeting.

When thus organized, the meeting could pass orders and enact by-laws touching every detail of the “prudential” affairs. It had the right to levy taxes, but it exercised this right through the selectmen or other “raters.” In this way the minister’s salary was raised, and the schools supported. The town officers and the deputies to the general court were chosen. It chose the schoolmaster and fixed his salary, and elected school overseers. Many small details of the town were looked after, such as assigning seats in the church, and selecting the church choir. The town meeting developed political discussion and popular rights, and many writers are of the opinion that it did more to originate, foster, and develop a national sentiment by which America became an independent nation than all other causes combined. It is, however, to be noted that there was a town system of local self-government intro-

duced into the New World by the Dutch, and that the Dutch hamlets and villages, as they were planted in the valleys of the Hudson and Delaware, possessed many of the characteristics of the New England town communities. These Dutch villages had regular meetings of the members of the community, which were a revival of the courts-leet of the Germanic races. These meetings exercised many of the functions of the town meeting. The Dutch system of local government will be discussed when the Middle colonies are examined.

Town Officers in New England

The Selectmen. — The town meeting annually chose a committee varying in number from three to thirteen for the local government of the town. The first record of selectmen for the town of Boston is of the date 1642. At that time, they were empowered by the general court to manage the affairs of the town, to superintend the education of children "neglected by their parents," and to lay out roads. In New Haven, "townsmen" were first chosen in 1651. In the Connecticut jurisdiction, authority was given them in 1639 "to try small causes, register wills, and administer estates." In Rhode Island the functions of the selectmen seem to have been performed by the "town council." In Plymouth, selectmen were first chosen in 1663, and the choice of the town had to be approved by the general court. Here, also, they had some judicial functions. Generally speaking, their functions varied in the different towns, but still their chief duties were very similar.

The town meeting was summoned on their warrant; they regulated meetings called for the election of representatives, and notified those elected; they could enact by-laws when so directed by the town meeting; they had entire charge of the financial affairs of the town; they had charge of the common

lands; they fixed boundary lines and laid out private roads. In Boston, they had, in addition, a great variety of executive duties. They had the right in all of the towns, in the early period, to appoint the minor town officers, such as hog reeves, water bailiffs, cow keepers, fence viewers, constables, and many others. Later on, the town officers were elected in town meeting.

Other Town Officers. — Other town officers were the constable, the town clerk or recorder, the treasurer, assessors, collectors, surveyors, clerks of the market, and fence viewers.

The New England County

Not until a number of years after the settlement of each colony was the county, or shire, introduced. It really was an outgrowth of the judicial system, as we have already said. With the increase of population, the judicial business of the general court became so great that county courts were established to relieve the higher body. Counties were first instituted in Connecticut in 1665; in Rhode Island in 1703; in Plymouth, the colony was divided into three counties in 1685. In Massachusetts, the county was much more than a judicial district. An able writer (Howard) has pointed out four of its most important functions, viz., first, as a judicial district; second, as an area for rating and equalizing assessments; third, as a higher military unit; and fourth, as a factor in the system of official nominations.

We have now briefly summarized the government of the New England colonies, and it will be an interesting exercise for the student to compare it with that of Virginia and the south. He will notice many points of difference, but the most marked will probably be the strongly democratic character of the northern colonies. In them the individual becomes a most important factor — in short, man is sovereign. The functions

of government are simply delegated by him to those in authority, never surrendered. The growth was from below upward, and not, as in Virginia, from above, downward.

QUESTIONS

1. When and by whom was the Charter of the Council for New England obtained?
2. What territory did this grant include?
3. How many patentees were there in this company, and what was their original motive for forming the company?
4. What circumstances aided them in securing colonists?
5. Who were the Pilgrims?
6. What prominent man aided the Pilgrims?
7. What can you say of the patent that was given to the Pilgrims?
8. Which was the oldest permanent English settlement in Massachusetts, and when and where was it made?
9. How would you characterize these first settlers?
10. What do you infer as to the objective point of their settlement from the fact that they secured their charter or patent from the London Company rather than from the Northern Company?
11. Is there any explanation of the fact that they failed to reach the territory of the London Company?
12. How many Pilgrims were in the *Mayflower*?
13. What theory did they hold as to the relation of church and state?
14. Why did they form the Compact and what were some of its most remarkable features?
15. To whom is the credit chiefly due for the principles of government which were embodied in the Compact?
16. To recapitulate, why is this Plymouth settlement justly called the cornerstone of our nation?
17. Who were the original "freemen" in the colony?
18. How were new members of the colony admitted?
19. What law was passed in 1671 concerning the admission of new members?
20. Who were the executive officers of the colony and how chosen?
21. What was the Court of Assistants? General Court?
22. By whom were the laws made?
23. In what way were the judicial functions at first exercised?
24. When do we first note the growth of new towns?

25. When was the representative system established? How many towns were there?
26. How many deputies were chosen from each town, and what were their duties?
27. What power was taken from the general court in 1671, and where was it lodged?
28. What powers and duties were conferred at this time on the Court of Assistants?
29. Who were the selectmen and what were their duties?
30. When were counties first formed and for what purpose?
31. When was Plymouth united to Massachusetts?
32. Describe the Massachusetts land grant. When?
33. Describe the settlement of Salem. When?
34. For what purpose did the original patentees organize the Massachusetts Company?
35. From whom did they secure their charter, and what name was given to the corporation?
36. What was the real motive for forming this company?
37. What towns were first established after Salem, and why?
38. What town became the capital?
39. What particular feature of the growth of towns is worthy of mention?
40. Describe the main features of the government of the Massachusetts Bay colony.
41. What were the powers of the general court?
42. What were the qualifications of a freeman?
43. What were some of the duties of the governor and assistants?
44. What persons constituted the legislature?
45. Did the magistrates and representatives constitute one legislative body?
46. In what way was the judicial business of the colony conducted?
47. In what towns were quarterly courts held?
48. By whom were these courts held, and what jurisdiction had they?
49. What minor courts were established in 1638?
50. When did the county court originate, and out of what was it evolved?
51. Name the first four counties of Massachusetts.
52. What persons constituted the county court?
53. Describe the "court of quarter sessions."
54. Name some of the powers of the county court.
55. In what respects were the towns subordinate to the county court?

56. Name the officers of the county court.
57. What views were held considering the relation of church and state?
58. Name some illustrations of Puritan legislation which show the relation of church and state.
59. What steps did King Charles take to suppress the spirit of independence in the colony?
60. How was his attempted tyranny met by the colonists? What was the result?
61. What form of government did King James II. impose on Massachusetts? When?
62. Who became governor and what colonies were united?
63. Describe the Andros government.
64. What effect on New England did the accession of William and Mary have?
65. Describe the government under the Province Charter.
66. Describe especially the judiciary system.
67. What were now the qualifications of a voter?
68. How long did this charter continue in force?
69. Describe the first settlement in Connecticut.
70. What towns framed, and when, the first written constitution?
71. Who were its makers?
72. What were some of the features of this famous constitution?
73. What powers were given at the same time to the towns?
74. Describe the settlement of New Haven.
75. Who only were given the privilege of choosing magistrates?
76. Who were the "pillars" of the church and what were some of their duties?
77. By whom was the governor elected?
78. In whose hands was the legislative and judicial business lodged?
79. When did the New Haven towns unite?
80. What do you know of the charter of 1662? How long did it continue in force?
81. For what officers did this charter provide?
82. When were county courts first established in Connecticut?
83. Who constituted this court?
84. What jurisdiction did it have?
85. What occasioned the formation of counties?
86. What were the qualifications of a voter?
87. Describe the settlement of Rhode Island.
88. Describe the government of Portsmouth and Newport after their union in 1640.

89. Describe the early government of Providence as set forth in the agreement.
90. Who were the "disposers" and what were their duties?
91. What criticism of this government has been made?
92. What attempts were made to unite the Providence and Newport settlements? When?
93. Describe the charter of 1663.
94. What were its most commendable features?
95. Describe the legislature under this charter.
96. How long did this charter remain in operation?
97. Describe the evolution of the Rhode Island county.
98. Briefly outline the settlement of New Hampshire.
99. Describe as nearly as you can the main features of its various forms of government.
100. When did New Hampshire become a royal province?
101. What was the character of the first code of laws framed after the royal government was established?
102. What was the character of that which supplanted the first?
103. To what other colony was New Hampshire frequently joined?
104. Give a brief history of the settlement of Maine.
105. What powers were conferred on Gorges by the charter of 1639?
106. Describe briefly the chief features of the government planned by Gorges. Did it succeed?
107. To what colony was Maine attached, and when?
108. What is the history of the origin of the New England town meeting?
109. What was the jurisdiction, as to area, of the town meeting?
110. What three systems of local government have grown up in the United States?
111. To what system does the town meeting belong?
112. What persons shared in the deliberations of the town meeting?
113. How was the town meeting summoned?
114. How was the meeting organized?
115. What were some of its powers and functions?
116. What influence has the town meeting had on our national life?
117. In what other colonies was a town system of local government planted?
118. Who were the selectmen and how were they chosen?
119. What duties were imposed upon the selectmen of Boston in 1642?
120. Under what other name are they known in some of the other colonies?

121. What were some of their chief duties in all the different colonies?
122. Besides the selectmen, what other town officers can you name?
123. What can you say in a general way of the origin of the New England county?
124. Name the most important functions of the county.

SECTION 3. — THE MIDDLE COLONIES

Introduction. — Of the thirteen original colonies, those of the middle zone were the last to come into the possession of the English. When the two great joint-stock companies were formed in England in 1606, there was a middle strip of territory starting from the Atlantic coast between the Rapahannock and Hudson which was open for settlement to the two companies with the understanding that neither was to plant a colony within one hundred miles of any settlement already begun by the other. We have already learned of the success of the London division of the joint company in founding Jamestown in 1607. The Plymouth division failed in its efforts to found settlements in New England, and it was not until 1620 that the original territory of the Plymouth division began to be settled. At that time the Plymouth Company got a new charter and thus became independent of the London Company. In an early chapter we have shown how this middle territory was settled by the Dutch and Swedes, respectively, and how, in 1664, England swept aside her rivals and took possession. By this conquest she became the actual possessor of the territory now included in New York, New Jersey, Pennsylvania, and Delaware, thus extending her dominion over the Atlantic sea-board from Maine to Georgia.

Governments of the Colonies with Reference to the Crown of England. — The relations of the different colonies to the king were not all alike; some of them were directly under his control; others were in the nature of corporations more or less

independent; and a third class, to which the powers and privileges of a palatinate were given. With reference, therefore, to the tie that bound each and all to the mother country, they may be roughly divided into three classes: the charter governments, the proprietary governments, and the royal governments. The accuracy of this classification, however, depends on the time when it is made. Several of the colonies, for instance, were at different times both charter and royal colonies, and sometimes their governments partook a little of the nature of both. It is not easy, for example, to say whether Massachusetts was really a royal or charter colony after 1691. In the main, however, Massachusetts, Rhode Island, and Connecticut were charter colonies; and Maryland and Pennsylvania (including Delaware) were proprietary colonies; and New Hampshire, New York, New Jersey, Virginia, North Carolina, South Carolina, and Georgia, were royal colonies.

Origin of the Middle Colonies. — The middle colonies, with reference to their origin, were different from those lying north and south. Having been founded by continental peoples, they have never been as purely English as the others. While Teutonic in blood and Protestant in religion, they have always been less homogeneous than their sister colonies. When they came under English control, English ideas prevailed, but more or less modified. From that day to this, continental immigrants have settled largely in this middle zone, so that the evolution of a type has been slow. This diversity of blood, however, if we can rely on historical precedents, will eventually develop the most robust type of citizenship. The mixed blood of the Englishman has made him the foremost citizen of the world.

New York

From 1614 to 1664, a period of fifty years, the Dutch were the only colonizers of the valley of the Hudson, and of north-

ern and central New Jersey; and for a part of the same period, they were the most numerous settlers on the east and west shores of the Delaware. New Amsterdam was the capital of all this territory, to which they gave the name New Netherland.

Government of New Netherland. — In 1609, Henry Hudson, an Englishman in the employ of the Dutch, discovered the river which now bears his name, and explored the coast as far south as Chesapeake Bay. Dutch traders at once sent vessels to Manhattan Island to trade with the Indians. In 1613, a few huts were built at the southern point of the island. Encouraged by the reports of their explorers, the merchants of North Holland formed themselves into a company, which on the 11th day of October, 1614, received from the states-general a special trading license in which the name of New Netherland first appears, the association styling itself the United New Netherland Company. A fort was established where Albany now stands and a treaty was made with the Five Nations, the tribe of Indians which possessed most of the soil of the Middle States.

When the charter of the United Netherland Company expired in 1618, the states-general refused to renew it. On the 3d of June, 1621, the states-general of Holland granted to the West India Company a charter with full powers over New Netherland for a period of twenty-four years. The territory was then erected into a province and the management of its affairs assigned to the chamber of Amsterdam. In 1622, they took formal possession of the country. In May, 1623, agricultural colonization began when thirty families came over in the ship *New Netherland* to Manhattan. In this vessel was Cornelis Jacobsen Mey, the first director-general of New Netherland. In 1626, Peter Minuit became director-general and was assisted by a council.

The Charter. — “The charter of the company provided for

a form of feudal colonization under patroons, such colonies to consist of fifty adults, and the lands occupied to run sixteen miles in length on the one side of a navigable river or eight miles if on both banks, but only so far into the country as the occupiers should push their settlements." The patroons had special privileges of trade, and magisterial powers; leet-courts were held upon their manors, and later their representatives sat for them in the colonial assembly. No rights of self-government were granted to the colonists, though they were exempted from taxation for a term of ten years. In 1640, a new charter was granted, by which local self-government, such as had existed in Holland, was introduced into the New World. "Gradually a large number of hamlets and villages sprang up, particularly in Long Island, possessing their own magistrates and managing their own local business."¹ These were veritable mark-societies, very similar to the New England town-communities, but transplanted directly to the soil of America from the Teutonic fatherland of the English race. The student will recall the reference to this similarity when studying the New England town. Each of these Dutch villages had its house-lots, common fields and pastures, and its folkmoot (town meeting) for the ordering of its domestic affairs. There was no division similar to the county, and whatever local government existed belonged to the manors, villages and chartered towns. The various local officers of New Netherland, as sheriffs, clerks, and magistrates, were appointed by the director and council, to whom appeals could be made by the local courts. The director and council were appointed by the home government. The council exercised executive and judicial functions. The exercise of authority was always arbitrary and often oppressive. In 1653, New Amsterdam was incorporated, and a board of aldermen and magistrates were appointed by the governor.

¹ Howard, p. 104.

Conquest by the English. — England never recognized the claim of the Dutch to land in North America, and in 1664 King Charles II. "gave to his brother, the Duke of York, all the territory of New Netherland, including Long Island, Martha's Vineyard, Nantucket, the Hudson river, and the land from the west side of Delaware Bay." That same year the Duke of York sent out a force under Colonel Nicolls, who compelled Stuyvesant, the last Dutch governor, to give up possession. A new code of laws, known as the Duke of York's Laws, was now promulgated and enforced throughout the territory formerly under the control of the Dutch. It thus happened that not only New York, but eastern Pennsylvania and Delaware, and for a brief time, New Jersey, were subject to the same jurisdiction. The Duke's laws, however, were not really enforced in Pennsylvania until 1676, and they only continued in force there until 1682, when Penn became the proprietor of that province. New Jersey can hardly be said to have ever been under the Duke's control, for during the same year that he took forcible possession, he reconveyed the territory to Lord Berkeley and Sir John Carteret, who, in 1665, gave the colony its first constitution.

The Duke of York's Laws. — Under the laws of the Duke of York, the proprietor appointed the governor and council, who jointly exercised the legislative, executive, and supreme judicial functions.

The Town. — The town or parish government, under the Duke's laws, consisted of the constable and four or eight overseers, elected by the freeholders. The constable, however, was chosen from among the retiring overseers. The constable and overseers had both judicial and legislative functions. When sitting at the town court they had jurisdiction in amounts not exceeding five pounds; or if above this amount, they could submit the question to arbitration. They also had

authority to assess tax rates and to manage many other purely local affairs.

There was also a species of town meeting at which many town officers were elected. The constable was the head officer of the town. Many of the local laws and customs of the Dutch were retained. The town when viewed from an ecclesiastical point of view was known as the parish. At the head of the parish, however, stood the constable and overseers, who were to choose yearly, from among the overseers, the two church-wardens. The overseers also made the assessments for building and repairing the churches, for the maintenance of the minister, and for the support of the poor. The chief duties of the church-wardens consisted in making presentments to the court of sessions of such immoralities as swearing, Sabbath-breaking, drunkenness, and other misdemeanors which to their knowledge had been committed while they had been church-wardens. Among the minister's temporal duties was to join in marriage and keep a register of marriages, births, and deaths occurring within the parish. By the statute of 1691, manors, precincts and districts are named as coördinate districts for the purposes of local government, with substantially the same offices and powers.

Township-County Government. — New York and Pennsylvania represent the township-county type of local government just as New England and Virginia, respectively, represent the "town" and "county" type. The county system of Virginia has repeated itself in the new states to the west on the same parallel. The same fact is true of the New England town system, and of the township-county system of the Middle States. This latter or compromise system now constitutes the highest type of local organization in the United States. The essential features of this system appear in a law passed in 1703, which provides that each town shall annually elect from the free-

holders therein, two assessors, one collector, and a supervisor. The supervisors had certain fiscal duties pertaining to the laying of the county rates. The complex character of these overlapping functions of the township and county can be more clearly explained when we come to study the fruitage of these colonial types as they now appear in the fully developed states which have grown out of the middle colonies.

The County. — There was no division similar to the county in New Netherland. In 1664, when the Duke of York became the possessor of the colony and changed the name to New York, in his famous laws of that year, the county at least appears in name, although the old English term “riding” was adopted for the area above the town. But the ridings were in fact rudimentary counties. In 1683, New York was divided into twelve counties.

County as a Military and Representative Unit. — In New York, the county was the unit of representation, and also the military unit, as in Massachusetts. The first representative assembly was called in 1683. It consisted of the governor and council and seventeen deputies elected by the freeholders. Very early two delegates were elected from each county, although the first assembly did not contain representatives from each one of the newly created twelve counties.

The county officers, as the sheriff, coroner, clerk, and justices, were appointed by the governor.

The Judicial System. — Under the Duke’s laws, the judicial system consisted of the “town” courts, courts of “sessions,” and the court of “assizes.” The town court was held by the constable and overseers and had jurisdiction in all civil cases where the amount in controversy did not exceed five pounds. The court of sessions met three times a year and was held by

the justices of the peace in each riding. It had jurisdiction in amounts ranging from five to twenty pounds.

The court of assizes had both appellate and original jurisdiction. It met once a year in New York. The governor and council sitting with the justices of the peace and the high sheriff constituted this court. It also possessed legislative power.

By the act of 1683, a judicial plan similar to that of Massachusetts was adopted. A supreme court for the province was created. This court consisted of a chief justice and two associates appointed by the governor. Appeals lay from this court to the governor and council. In the county, the lowest court was that of the justice of the peace. Next above the justice's court was the "sessions"; then the "county" court composed of judges appointed by the governor. There was also in each county a probate court.

Certain Township Officers Having Dual Duties. — The first definite formulation of the dual township-county system of New York appears in the act of 1703, already referred to, and in order that its later and fuller development may be better understood, some explanations will now be given of its application in that act. We have referred in another paragraph to the annual election in each township of a supervisor, and have stated that they, as a body, had certain fiscal duties pertaining to the county rates. This act of 1703 constituted the township supervisors in each county a representative board, to which was given the supervision of the levy and collection of the "county charge." They were required each year to estimate the county expenses and to apportion them among the various towns, manors, or precincts of the county. It was their duty also to see that the proper local officers assessed and collected the respective quotas. The supervisors, likewise, appointed the county treasurer and required of him an annual account-

ing. As township officers, the supervisors had few independent duties, except that each with the collector and assessors was responsible for the collection of the quit-rents for which the inhabitants were liable. Another illustration of dual duties was that of the justices of the peace. Besides their judicial functions as the court of sessions, the orders and regulations of the overseers of highways were subject to their approval. They had jurisdiction in case of removal of paupers; granted liquor licenses; appointed inspectors of flour and repackers of beef; nominated assessors, collectors, and supervisors on failure of the towns to elect the same. They also had some executive functions.

New York a Royal Province. — In 1685, when the Duke of York became king of England as James II., New York was made a royal province. The colony was then joined for a time to New England and was under Sir Edmund Andros. As a royal province it had a governor and an elective assembly. Like the other colonies, there was a constant struggle between the assembly and the royal governor, and this quarrel continued until the Revolution.

New Jersey

The first settlement within the present state of New Jersey was made in 1617 by the Dutch at Bergen, opposite New York. As was stated in connection with the history of New York, it was originally a part of New Netherland and so remained as long as the Dutch supremacy continued. It had, therefore, the same local laws, so that what has been said of the government of New York under the Dutch will apply to New Jersey, although there were few settlers and the government was very rudimentary. There were no patroons with their feudal laws, no definite ridings, nor towns, as in the larger and older sister colony. New Jersey was included in the grant made in 1664

by Charles II. to his brother, the Duke of York, and was by him immediately assigned to Lord John Berkeley and Sir George Carteret by conveyance dated June 23, 1664. It was called New Jersey in compliment to Carteret, who had formerly been governor of the island of Jersey in the English Channel. The first English settlement was made in 1664 at Elizabeth by Puritans from Long Island. The proprietors took measures to induce immigration and in a short time numerous flourishing towns were established. During the Dutch supremacy an effort was made to purchase the land from the Indians and the English pursued the same policy, so that the aborigines never gave the settlers much trouble.

Government of the Proprietors. — The administration of the government under the proprietors was exercised by a governor and council and general assembly. The governor was appointed by the proprietors, and the council by the governor. The general assembly was the legislature and it consisted of the governor and council, and of deputies chosen by the free-men of the towns. The laws thus made were subject to the approval of the proprietor. The legislature created the courts, levied the taxes, provided for the defense of the province, and made annual appropriation for the support of the government. It will thus be seen that the colony had many of the elements of popular government, especially the right to lay taxes and to control the provincial expenditures. Freedom of conscience and of worship was also secured. Liberal charters of incorporation were given to the towns by which they were empowered to make their own by-laws, to choose their own town officers, and to hold courts for the trial of small causes.

Division of the Province. — In 1676, the province was divided: West Jersey was transferred to a company of Quakers who had bought Berkeley's interest; and East Jersey, to Carteret.

Government of West Jersey. — The government of West Jersey under the Quakers consisted of a governor and council, and an assembly representing the people. To the assembly was given the power to appoint all officers except the governor, to fix salaries, and to levy taxes. Liberty of conscience was allowed, and in general the principles of popular government were recognized. The new government divided the province into "tenths," and these were divided into "proprieties," each of which chose a representative. Courts were organized in two judicial districts.

Government of East Jersey. — East Jersey did not long remain separate, but during that brief time Carteret gave it a new charter that was less liberal in many respects than the original. In 1682, soon after the death of Sir George Carteret, the West Jersey Quakers (which included William Penn) purchased from his heirs their rights to East Jersey, but the new purchasers made few changes in the form of government, except that they established counties in both provinces and then made them, instead of the "tenths," the units of representation. This was an important change in the government.

New Jersey a Royal Province. — Owing to continued disputes between the proprietors and the Duke of York, and between the proprietors themselves, and between the proprietors and the people, there was constant unrest in the province during the first thirty years of its history. This trouble was at last terminated in 1702, when the proprietors surrendered to the crown all their jurisdiction in both provinces. The government, as then established, consisted of a governor and council appointed by the crown, and an assembly of deputies chosen partly by counties and partly by some of the towns.

A property qualification was also required both for the representatives and for the voters. The governor had a negative on all laws passed by the assembly, and in addition the laws

had to be transmitted to the crown for approval. The governor and council were authorized to constitute courts of justice and to appoint all judicial officers. It will thus be seen that the new government was less liberal than the old had been. The assembly was also deprived of its former control over the judiciary, and of its own sessions, as well as over expenditures.

The New Jersey County.—By the charter of 1665, the assembly was given the power to erect courts, fix their jurisdiction, and to appoint their executive officers. It was not until 1675 that the assembly acted in the matter. In that year, however, a system of courts was established. The lowest tribunal was the town court, and four counties were vaguely defined with a “county court” of sessions in each. The judges of these courts were elected by the people of the respective districts, and they were required to hold court twice a year. There was an appeal from this court to the “Bench” or to the “court of Chancery.” It is believed that the former was the provincial court of assize.¹ The student will note that here, as in Massachusetts, the county is at first created as an incident of the judicial system. In 1682, the judicial system of East Jersey was reconstructed. The town courts remained. Each of the four counties was given a “court of quarter sessions” composed of the justices of the peace. The office of high sheriff for each county was now created. While the county still remained as a judicial district, the court of quarter sessions discharged the functions of a county administrative board and could levy rates for the building of prisons and appoint collectors. There grew up at this time “a system or habit of co-operation between town and county in the matter of taxation and equalization of assessments which constitutes another important precedent for the mixed township-county system of

¹ Field's *Provincial Courts*, p. 7.

the present day.”¹ The administration of the fiscal affairs gradually became the joint duty of the town and county, thus putting New Jersey more and more in harmony with the prevailing middle state system of local government. After the union of East and West Jersey, the judicial system was brought into general harmony with that of New York and Massachusetts. General sessions of the peace and courts of common pleas, with appeal to the supreme court, were established. At the same time the county became the unit of representation.

New Jersey Town.—Under Berkeley and Carteret, the town was a judicial district. This town court was presided over by a justice of the peace and one or more other persons. With the reconstruction of the judicial system under the second proprietors in 1682, this court still remained, but now either party could demand a jury even in the smallest cases. In 1686, town assessors began to be elected by each town, to whom was given the right to levy taxes for all purposes except for highways. In 1693, each town was empowered to choose one or more men to join with justices of the county court, annually, to adjust the debts of the county and assess taxes for their payment. But few other changes were noticeable until the Revolution.

Pennsylvania

Introduction.—Pennsylvania, like New York and New Jersey, was not originally an English colony. The first Europeans were the Dutch, who were soon followed by the Swedes. These early continental settlers fringed the shores of the Delaware from the bay northward, hence it will be necessary to include the early history of the state of Delaware with that of Pennsylvania. When Penn became proprietor in 1682, Dela-

¹ Howard, p. 366.

ware was also included in the larger colony. The first exploration of the Delaware, as far north as Philadelphia, was made in 1616 by Hendrickson, who was in the employ of the Dutch. From that time the Dutch laid claim to the valley of the Delaware. In 1629, the Dutch West India Company, in order to stimulate the planting of colonies in New Netherland, "adopted certain articles termed 'Friedoms and Exemptions,' under which scheme the feudal tenure of lands was to be introduced into America, south of Canada, where settlements on an analogous plan had already commenced."¹ As a result of this scheme, Samuel Godyn and Samuel Bloemart purchased from the West India Company a large tract of land at the mouth of the Delaware Bay.

The Dutch Settlements on the Delaware.—The name Swanendael (valley of swans) was given this tract. About 1631, a colony under Skipper Heyes, in the ship *Walrus*, from the Texel, was planted in Swanendael on Lewes Creek, and a stockade called "Fort Optlandt" was erected. There were thirty-two persons in this colony. They purchased the land from the Indians. It was an agricultural settlement made up of industrious persons and ought to have succeeded, but owing to the folly of Giles Osset, the commander of the colony, all were massacred the same year by the Indians. Osset, to proclaim the sovereignty of Holland, had set up, on a post, the arms of Holland, painted on tin. An Indian, ignorant of its purpose and attracted by its glittering surface, appropriated it. Osset, indignant at this supposed affront to his country, induced the tribe to punish the offender, although he did not intend that the punishment should be severe. His arguments were so successful that they brought him the head of the luckless thief. The effect of this sanguinary punishment, although executed by the tribe, seems to have alienated the Indians, and

¹ Egle's *History of Pennsylvania*, p. 30.

they plotted revenge with the result above stated. Thus ended the first attempt at settlement by the Dutch on the Delaware. Other settlements made by the Dutch will be best told in connection with the Swedish settlements.

Swedish Settlements on the Delaware. — Peter Minuit, for eight years governor of New Netherland and of the Dutch on the Delaware, was recalled in 1632. Being greatly dissatisfied at the manner in which he lost his position, he went to Sweden and persuaded that country to continue its attempts at settlement on the Delaware. Queen Christina, favoring the scheme, placed him at the head of an expedition consisting of a ship of war and of a transport. In this expedition were a clergyman, an engineer, about fifty settlers, with provisions and merchandise. They reached the Delaware about May, 1638.¹ They purchased from the Indians the land on the west shore, from the capes to a point opposite the present city of Trenton. They made a settlement on the Minquas creek, calling it Christina. The Dutch through Kieft, then director-general of New Netherland, protested, but without avail. It may be questioned as to which country had the best right to the soil. While it must be conceded that the Dutch had been trading on the river from the time of the settlement of New Amsterdam and had held Fort Nassau, on the Jersey shore, as a trading post, from 1624; that they had purchased much of the land from the Indians and had planted the unsuccessful colony of Swanendael; yet it cannot be denied that the Swedish settlement of Christina was the first permanent settlement on the Delaware. To the entire west shore of the river they gave the name New Sweden. Other settlements were made by the Swedes farther up the river and within the present limits of Pennsylvania. The Dutch all this time kept a jealous eye on their rivals, watching for an opportune time to supplant them. This came in 1655.

¹ Egle's *History of Pennsylvania*, p. 33.

In that year, Stuyvesant, the governor of New Amsterdam, received five armed ships from Holland; to this he added two other ships, altogether containing six hundred men. Stuyvesant took command himself and proceeded to take forcible possession of New Sweden. On September 25, 1655, the entire Delaware valley was again in the possession of the Dutch, under whom it remained until 1664, when the English fell heir to it as a part of New Netherland. It then became a part of the domain of the Duke of York, as stated in the history of New York, and was subject to the same laws as the former colony until transferred to William Penn in 1681.

In 1655, at the time of the Dutch conquest, many settlements had been made by the Swedes on the west bank of the river from Christina, which was within the limits of the present state of Delaware, northward almost to the present site of Philadelphia. They laid the foundations of Uplandt, now Chester, and of New Castle. Many small villages were also founded and other improvements made indicating a healthful growth.

Character of the Swedish Government on the Delaware.—Of the laws and customs of the Swedes on the Delaware we have but little record. From 1638 to 1655, the period that the Swedes were in control, there were five governors. The first of these was Peter Minuit, and the last, John Claudius Rysingh. John Printz had the longest tenure, his term extending from 1643 to 1653. The best glimpse we have of the form of government is contained in the "instructions" to Governor Printz. It must be remembered that the Swedish settlements were made under the auspices of the Swedish West India Company, which company was organized for the purpose of colonization and commerce. This company granted fairly liberal terms to settlers.

The land was secured to them as "allodial and hereditary

property." "They were given the right of administering justice, founding cities, villages, and communities; to make laws and appoint magistrates and officers. Liberal provisions were made for the exercise of religion and the support of education."¹ The powers of the governor are set forth in the aforesaid instructions to Printz. He was commanded "to decide all controversies according to the laws, customs and usages of Sweden; to bring to obedience and order, by necessary and convenient means, the mutinous and refractory persons who will not live in peace; and he may punish great offenders, if he finds any, not only by imprisonment and other proportionate punishments, but even by death, according to the crime, if he can seize the criminal; but not otherwise than according to the ordinances and legal forms, and after having sufficiently considered and examined the affairs with the most noted persons, such as the most prudent assessors of justice that he can find and consult in the country."² The instructions also acknowledged the right of soil in the Indians. The settlement of the country proceeded very slowly, but trade with the Indians was pushed vigorously and this helped to keep up the irritation with the Dutch, for their trading ships were constantly on the river going to and from Fort Nassau and other Dutch trading posts, to New Amsterdam. The seat of government for the Swedes was on the island of Tinicum. "It was therefore at Tinicum that law and justice was first regularly administered within the present limits of Pennsylvania, for prior to its settlement, the people sought redress for their grievances at Fort Christina which was in Delaware."

As to the local administration of justice under the Swedes, not enough is known to justify any definite statements, but we can safely infer that the settlers participated but slightly

¹ *Philadelphia*, by Allinson and Penrose, p. 24, Johns Hopkins University Studies, etc.

² *Pennsylvania Archives*, second series, vol. V, p. 764.

in the management of affairs. There were courts and a species of town government, but everything was in a rudimentary state. This was the embryonic stage and it will be interesting to note the gradual evolution of popular government from that time, through the Dutch, then the Quakers, to the Revolution.

The Dutch Government on the Delaware. — The contests between the Dutch and Swedes finally culminated in open hostilities, and ended in the conquest of the latter by the Dutch in 1655, under Stuyvesant, the director-general of New Netherland. This conquest was followed by the establishment of a Dutch government on the Delaware, and the appointment, by degrees, of proper officers for the enforcement of the law and the administration of justice.

Under Stuyvesant, the government of New Netherland consisted of a director-general and council, as the student will remember.

The council had the supreme authority to make laws and execute them throughout its jurisdiction. It was also a judicial tribunal for the trial of both civil and criminal cases. Small settlements on the frontier were sometimes allowed local courts, from which an appeal lay to the director-general and council of New Netherland. In this highly-centralized Government, one of the most important officers was the "Schout," who combined many of the duties of a sheriff, district attorney, or prosecuting attorney, and acted in many cases for the states-general and the company. He "was charged specially with enforcing and maintaining the placards, laws, ordinances, resolutions, and military regulations, and with protecting the rights, domains, and jurisdiction of the company, and executing their orders, as well in as out of court, without favor or respect to individuals." He superintended all prosecutions and suits. After trial and conviction, it was his duty to see to the execution of the sentence of the court.

The government on the Delaware was modeled after the foregoing government of New Netherland, but a vice-director was appointed for the Delaware. The first person honored with this office was John Paul Jaquet, who held it for two years. He was instructed "to give orders, and have them observed, in all matters concerning trade, policy, justice, and military affairs, and to administer law and justice to citizens as well as soldiers." The vice-director was given a council which was convoked by him, and in case of a tie, he had a "double" vote. In military trials before the council, two sergeants were added to the board, while in civil suits two suitable freemen were added instead of the sergeants. The vice-director was burdened with many duties, some of them very trivial. He enforced the laws against the sale of liquor to the Indians, the robbing of gardens, and the profaning of the Sabbath day. He tried cases of assault and battery, regulated the running at large of goats and swine, and had the general oversight of trade.

Division of the Colony, 1657. — The Dutch West India Company was much in debt, especially to the city of Amsterdam, for services rendered in conquering the Swedes on the Delaware. To pay the debt, it ceded to that city, in 1657, a tract of land around Fort Christina, or, as it was now called, Fort Casimir, which was known as the "city's colony," and was called New Amstel, while the region north was known, by way of distinction, as the "company's colony."¹

Government of New Amstel. — In the cession to the city of Amsterdam, the colony was in the nature of a fief, but the sovereign and supreme authority was to remain in the Dutch West India Company. The city of Amsterdam at once invited colonists, and with characteristic vigor promptly

¹ Hazard's *Annals*, p. 220.

established a form of government. It offered certain "conditions" to colonists, among which it provided that matters of police and the administration of justice were to be regulated as in Amsterdam. A schout or "head of justice" was appointed in the name of the West India Company by the deputies of Amsterdam. Three burgomasters were also appointed by the common burghers and five or seven "schepens," for which the burghers were to nominate a double number, from which the director was to select. The schepens possessed judicial functions and had jurisdiction, at first, in the trial of causes involving amounts up to only one hundred guilders. (A guilder was 38 cents.) Afterwards this amount was extended to six hundred guilders. Appeals from the judgments of the schepens were carried up to the director-general and council of New Netherland. It was also provided in the "conditions" that the city of New Amstel should have the right to choose a council of twenty-one persons, to whom, together with the burgomasters, the government should be entrusted, whenever the colony numbered two hundred families or more. This council was a close corporation, since it possessed the power of filling, by election, all vacancies in its body. It also had the right of annually choosing the burgomasters and the nomination of the double number of schepens. "The burgomasters of Amsterdam retained the right to appoint the secretary, messenger, and other inferior officers, and to furnish a schoolmaster, smith, wheelwright, and carpenter."¹ Notwithstanding these provisions, however, a large part of the local affairs of the colony were regulated across the ocean in Amsterdam. Occasionally "meetings of the community" were held "at the fort," to elect tobacco inspectors, or to fix the price of skins in the trade with the Indians.

Enough has been said to show that there was little popular government in New Amstel. The administration of affairs

¹ Hazard's *Annals*, p. 221.

was chiefly concentrated in the hands of the officers of the trading company or in those chosen with their consent.

The Company's Colony. — The so-called company's colony, which had jurisdiction, subject to the government of New Netherland, over the settlements north of the city's colony, had a precarious existence from the time of the division in 1657 until 1663, when it was absorbed by the latter colony. During the six years of its separate existence, it had two governors or vice-directors who administered the government in accordance with the company's directions. An outline has already been given.

After much clashing of authority between the city and company, both reached the wise conclusion that the colonies should be consolidated. Lengthy negotiations ensued, but at last the result was attained on the 12th of February, 1663. The company transferred its interests to the city. By this transfer, the entire South or Delaware river, and the proprietorship of the land "beginning at the sea, upwards as far as the river extends, and on the north side three leagues from the bank of the river landward in, and on the south side as far as the land extends there to the English colonies," came under the jurisdiction of the City of New Amstel colony, subject, of course, to the sovereign control of New Netherland. The formal transfer did not take place until the 22d of December, 1663, when a deed for the whole territory on the Delaware was executed, and Alexander D'Hinnoyosso became sole commandant or vice-director. His administration, however, was of short duration, lasting only from the 28th of December, 1663, to October 1st, 1664, when his rule was brought to an abrupt close by the conquest of the colony by the English.

The Settlements on the Delaware under the Duke of York, 1664-1681. — On the 12th of March, 1664, Charles II. granted to his brother James, Duke of York, the Dutch colony of New

Netherland, which included, as we have already said, the colonies on the Delaware. It mattered not to Charles that this territory was already occupied; indeed, some writers believe that he did it to have revenge against his old enemies, the Dutch.

Form of Government on the Delaware under the Duke of York. — The Duke was given full and absolute control of all his possessions, with the reservation that his laws should not be contrary to the laws of England. An agreement was made with the Dutch and Swedes on the Delaware that the burghers and planters would be protected in their property upon submission to his majesty's authority; and the magistrates were to be continued in office for a period of six months. Captain Carre was appointed schout after some time had elapsed, and five of the Dutch residents were named as his councillors. It was the duty of the schout and his council to hear and determine such cases of dispute as might be brought before them. As the Dutch and Swedes constituted the major portion of the population, English laws and institutions made slow progress. The government was centralized in the military authorities at New York, or in their agents on the Delaware, and the colonists had but little voice in their affairs.

Ordinances were made by the governor and council. In one of these ordinances it will be interesting to notice that the local office of constable is revived. The "town" as a military unit is also created. The provision for the town is made in an order which provided that when danger of an Indian outbreak threatens, the inhabitants were directed "to retire into towns for their better safety and security." New Amstel, now New Castle, was made the capital, and at a council held at New York on the 17th of May, 1672, it was ordered that "for the better government of the town of New Castle for the future, the said town shall be erected into a corporation, by the name

of bailiwick; that is to say, it shall be governed by a bailiff and six assistants, to be first nominated by the governor, and at the expiration of a year four of the six to be out, and four others to be chosen in their places, the bailiff to continue for a year, and then two to be named to succeed, out of whom the governor shall elect one." The bailiff was the presiding officer of the courts of the town. The bench appointed the constable. The town court had absolute jurisdiction in all actions for debt or damage not exceeding ten pounds in value. The office of schout was converted into that of sheriffalty and the sheriff was appointed by the governor. Three courts of judicature were established on the river: one at New Amstel (New Castle); one at Uplandt (Chester); and one at Whorekill (Lewiston). Eight magistrates were to be elected for each court. In 1674, the officers of government on the Delaware were, a sheriff, a secretary, and five magistrates for New Castle, and five for the river plantations. In 1676, Governor Andros decreed that the so-called Duke of York's Laws should be extended to the Delaware; that the three courts already created should continue; that the said courts should consist of justices of the peace, three to be a quorum, and the court to have the power of a court of sessions; the courts to have the power to make by-laws or orders which were to be in force for one year. It was further provided that there should be a high sheriff for New Castle, the river and the bay; and that the high sheriff have power to appoint an under sheriff or marshal. A clerk was to be appointed to keep the records. All writs were to be in the king's name. No taxes could be imposed, except in an emergency, without the approval of the governor. It must not be understood that the Duke of York's Laws were ever wholly in force upon the Delaware, but still they had great influence on the institutions of the territory, and later upon the government of Pennsylvania.

The Duke's Laws revived the ancient English municipal divisions of ridings, towns, and parishes. The riding was an aggregation of towns, chiefly for judicial purposes, but was of small importance in the political organization. There was a court of sessions in each riding, and in each a high sheriff was chosen. The governor named the sheriff from three names presented by the justices of the sessions. The sheriff appointed the marshal for each riding. The superior court, called the court of assizes, was held once a year in New York. (See New York.)

The Township under the Duke's Laws. (See New York.)—The township was the principal factor of the local organization. The jurisdiction of each town was carefully guarded. In each was kept a registry of marriages, births, and deaths. A church was to be erected in each, and two churchwardens were elected annually by the constable and overseers out of their own number. It was the duty of the wardens at the opening of each court of sessions to make a presentment in writing of all misdemeanors committed and not punished during their term, such as swearing, profaneness, Sabbath-breaking, and drunkenness. The town was governed by a constable and board of overseers, consisting at first of eight, and afterwards of four able men in each parish. The overseers were elected by the householders for a term of two years; and the constable was elected from among the retiring overseers. The duties of the constable and overseers were very numerous. As a badge of office, the constable carried a staff six feet long, with the king's arms on it, provided at the expense of the town. In the matter of the revenue, the sheriff annually directed his warrant to the constable of every town, and required him to call together the overseers of the town, by whom a list of all the male inhabitants over sixteen was made out; also an estimate of all personal and real estate. The

lists and assessments were then returned to the sheriff, who carefully examined, corrected, and perfected the same, and then transmitted them to the governor. The rates were paid to the constable. County government did not at first exist, although the riding was, in several senses, a rudimentary county. The general courts, however, had some special powers, both of a local and general character, that in a sense anticipated the present complex township-county system. There were three of these courts as we have learned, and they possessed considerable power of legislation. They had power to make by-laws that were binding for the space of one year, for the administration of local matters. They could fix rates for highways, for the poor, and for other "necessaries." They also appointed, yearly, overseers of highways and viewers of fences.

Pennsylvania as a Quaker Colony, 1682. — The authority of the Duke of York had scarcely become established on the Delaware, before another transfer occurs and the luckless inhabitants find themselves under a new master. This sudden and arbitrary change of rulers, in which the settlers had no voice, well illustrates the spirit of the olden times with respect to popular government. The king could do with subjects what he pleased, — and the king "could do no wrong." The Stuart kings, especially, believed in the old doctrine of "divine right," notwithstanding the brave fight of the Puritans by which one of the royal line, Charles I., was brought to the block. The principle of popular rights was even then becoming securely entrenched in the English constitution, but Charles II. would not see it. However, the granting of the Delaware territory to William Penn was a blessing, even though the manner in which it was done was wrong in theory.

Motives of Charles II. in Granting Territory to Penn. — Two reasons have been assigned why Charles II. decided to transfer

land in America to William Penn. First, on account of Penn's "commendable desire to enlarge our English Empire, and promote such useful commodities as may be a benefit to us and our dominions, as also to reduce the savage natives by gentle and just manners to the love of civil society and Christian religion." Second, to repay a debt of 16,000 pounds due to William Penn for services rendered to King Charles by the father, Admiral Sir William Penn, lately deceased. William Penn, the founder of Pennsylvania, was born in London in 1664. He was educated at Oxford, studied law, and for a time was also a soldier.

In 1667, he joined the Quakers, and soon became an earnest preacher of their doctrines. He was several times thrown into prison for preaching these doctrines, which were at that time considered heretical. He wrote several books defending his faith. He especially advocated the "peace principles" of his sect, and became known far and wide as the "apostle of peace." In 1677, he preached in Holland and Germany. This continental tour was one of the chief causes for the large German immigration that in later times came over to his colony. Having learned to know their sterling qualities, by personal contact, he made special efforts to induce them to come to Pennsylvania. William Penn was an admirable man in every way, and his character is worthy of the highest emulation. The great State of Pennsylvania is his most enduring monument. He died in 1718.

The Manner in which Pennsylvania was Transferred to Penn. — In 1680, William Penn petitioned Charles II. to grant to him, in lieu of the money owed him, letters patent for a tract of land in America, lying north of Maryland, bounded on the east by the Delaware river, on the west to be limited as Maryland was, and to extend north as far as it might prove productive. When this petition reached the "Privy Council

for the Affairs of Trade and Plantations," they sent copies of it to the agents of the Duke of York and Lord Baltimore respectively, because they were interested in the designated territory. Some objections were made both by the Duke and Lord Baltimore. After many conferences and much discussion concerning the boundary lines, the committee finally reported favorably, and presented the draft of a charter constituting William Penn, Esq., absolute proprietary of "a tract of land in America, therein mentioned." The king affixed his signature on March 4th, 1681, and named the province Pennsylvania in honor of Admiral Penn. This charter is in the office of the secretary of the commonwealth in Harrisburg.

About a month after the signing of the charter, the king issued a declaration informing the inhabitants and planters of the province that William Penn, their absolute proprietary, was clothed with all the powers necessary for the government. A few days later, Penn also issued a proclamation to the inhabitants in which he mildly announced his authority over them, but promised that he would exercise it "uprightly" and that they should be governed "by laws of their own making," and asked them to submit to the commands of his deputy until he should see them. He commissioned his cousin, Captain William Markham, as his deputy, the commission bearing the date April 10, 1681. He instructed his deputy to call a council of nine, over which he was to preside; to secure the assent of the inhabitants to his authority; to settle boundaries, survey, set out, rent or sell lands; and to erect courts, appoint sheriffs, and justices of the peace. In 1682, the Duke of York deeded the "three lower counties" (Delaware) to Penn, giving him a fee-simple estate in the soil, but no political rights. Penn afterwards assumed political control, but there is no evidence that it was ever granted to him by the Duke of York. During the same year, the Duke of York deeded his interest in the province of Pennsylvania to Penn. By these two deeds

from the Duke, he protected himself against any future claims that might arise and also further strengthened his title to the soil. Prudence suggested these transfers from the Duke, and in a legal sense Penn's title now seemed perfect. But Penn's high moral nature still prompted another step before resting satisfied with his title, and that was the purchase of the Indian title to the land. This last act indicates the splendid integrity of the man. As the story runs he met the Indians under a great elm-tree, by the side of the river, and bought the land from them and made with them a treaty of peace which was not broken for sixty years. Early in 1683, he laid out a capital city for his colony, calling it Philadelphia.

Government under Penn.—Pennsylvania (including Delaware) had a proprietary government under Penn. The proprietor had all the subordinate powers of legislation which formerly belonged to the courts palatine. Under the Duke of York, the township was almost the sole unit of local government, but with the engrafting of Penn's system upon the old, important changes occur. He proceeded at once to organize three counties, Chester, Philadelphia, and Bucks, and in this way supplemented the rudimentary county system of the Duke of York. He reserved to himself the governorship and the appointment of a deputy to act in his absence. He gave all legislation into the hands of the assembly. The first legislative assembly met at Chester, December 4, 1682. Seven deputies were elected from each county by the freeholders. There was also a provincial council consisting of eighteen persons who, like the deputies to the assembly, were elected by the counties in a mass meeting. Members of the council were elected for three years, one-third retiring annually.

The council, with the governor or deputy who presided, had power to prepare all bills and propose them to the assembly. It also had general executive power, and at first the manage-

ment of the finances and of schools, and the establishment of courts of justice. The governor could do nothing without the consent of this body. The governor, in the beginning, appointed and commissioned the judges, sheriffs, coroners, and justices of the peace. In the council he had three votes. In 1684, Penn returned to England, leaving the affairs of the colony in the hands of the council. After a time, becoming dissatisfied with their management, he commissioned five members of the council to act as his deputies in transacting executive business. This plan not proving satisfactory, a single deputy governor was appointed.

In 1692, his province was taken from him by William and Mary and placed under the jurisdiction of the royal governor of New York; but in 1696, Penn was reinstated in his proprietary rights. A change was now made in the government. First, the number of members of the council and assembly was diminished; second, freemen were required to be twenty-one years of age, to have resided two years in the province, and to possess certain property; third, power was given to the assembly to initiate legislation, submitting bills to the council for approbation.

The Charter of 1701.—Penn returned to the province in 1701, and he then gave it a new charter of privileges. By it he slightly extended the powers of the assembly, and gave the freemen the privilege of nominating to him persons for sheriffs and other inferior officers. At this time, he gave the "three lower counties" (Delaware) a separate legislature, and they remained separate, to this extent, until the Revolution, but had the same proprietary governor as Pennsylvania. By this charter, the powers of the council were withdrawn and the governor acted alone. All forms of religion were tolerated. Slavery was discouraged and the slave trade as far as possible stopped. After 1683, the assembly met in Philadelphia, which then became the seat of government.

After the death of Penn in 1718, his sons inherited his proprietary rights, and appointed deputy governors to administer the government. The deputy governors appointed the judges, but all salaries were granted by the assembly, which managed the revenues and controlled its own sessions. Sheriffs and coroners were chosen by the people, also the assessors, overseers of the poor, and pound-keepers.

The Pennsylvania County. — Enough has already been said when discussing the judicial system to show that the county in Pennsylvania as in New England, New York, and New Jersey, was a “child of the courts.” The desire for a judicial system in which there might be convenient courts of appeal, made a “middle” or county court necessary. By the creation of this court, to which was given the powers of a court of sessions, the county became a political institution. The creation of this court was contemporary with the enforcement of the Duke of York’s Laws on the Delaware in 1676. The Pennsylvania county is therefore an English institution. Under the Dutch there was no such territorial division. It will be remembered that the Duke’s Laws used the term “riding” instead of county. Governor Andros enforced the Duke’s Laws on the Delaware by an “ordinance” bearing the above date, and in that same ordinance three courts were designated to be held in the “several parts of the river and bay.” These courts were to be held, as already stated, at New Castle, Uplandt (Chester), and Whorekill (Lewiston), respectively. In the ordinance, they were not called county courts, and their respective districts were not defined. In the original court records, however, they are actually styled “county courts.”¹ In 1678, the bounds of New Castle and Uplandt counties were defined.² We have already learned how Penn, in 1683, ignoring these early counties, created the three counties of Chester,

¹ *Record of Upland Court*, 119, 165, 171.

² Hazard, *Annals*, 459.

Philadelphia, and Bucks. But the county system may be fairly said to have begun in 1676. That date, therefore, marks the beginning of the centralization of local government in the county at the expense of the town. "The town court of the Duke's code with its right of enacting by-laws, is abolished, and the court of the county is granted legislative powers. Thus, in the very outset, one of the most remarkable features of county government in Pennsylvania — its popular and independent character — is plainly revealed."¹

With the coming of Penn, almost all the important functions of local government were centered in the county, and the town passed further into the background. He reconstructed the counties, creating the three already named, in the province, and three in the "territories" (Delaware). He made the county a judicial organism, a unit of general civil administration, and a fiscal body.

In no other colony was the county organization so perfectly worked out. The Pennsylvania county system has, on that account, exerted a profound influence upon the political organisms of the Northwest Territory and the states beyond the Mississippi and Missouri.

"To New York first and next to Pennsylvania belongs the honor of predetermining the character of local government in the West."² Pennsylvania is also the originator of the commissioner system, which, though centralized, still rests upon the republican foundation of popular election and local representation.

Division of the County Court. — In 1706, by an ordinance of Deputy-Governor Evans, the jurisdiction of the existing county court was divided between two different tribunals, civil causes being transferred to the "county court of common pleas,"

¹ Howard, p. 370.

² Howard, p. 387.

and criminal actions to the "court of general quarter sessions of the peace." Both were held quarterly at the same place by any three justices; and from their judgments appeal lay to the supreme court consisting of three judges commissioned by the governor. By the act of 1722, the governor specially commissioned judges to preside over the court of common pleas. Various other changes were made from time to time, down to the Revolution, in the personnel of the respective courts. The county courts had jurisdiction in the laying out of roads.

County Commissioners. — The unique "commissioner system" first appears in the act of 1725. This act provided for the election of three commissioners and six assessors at the general meeting of the tax-paying freemen of the county. This democratic assembly of the freemen of the county, originally peculiar to Pennsylvania, was a revival of the folkmoot of the primitive shire. Provision for this annual county meeting first appears in the Act of Settlement of 1683. Almost from the first, members of the assembly and of the council, as well as sheriffs and coroners, were elected at this meeting.

Duties of the Commissioners. — To the commissioners thus elected, were transferred the functions hitherto belonging to the court of quarter sessions. The assessors and commissioners jointly calculated the public debts and charges. They directed the constables of the several townships to bring lists of all polls and property subject to taxation to the assessors, who then fixed the rate. The assessors were required to divide the county into districts and to appoint a collector for each. Any "aggrieved" person could appeal to the commissioners sitting as a board of equalization. The commissioners with the assessors appointed the county treasurer. By the act of 1779, two assistant assessors for each township were to be appointed by the board of commissioners. Already, in 1725, the office of clerk of the commissioners had been created.

The Pennsylvania Township. — The Dutch village communities, as developed on Long Island, were never fully established on the Delaware. On Long Island, these village settlements had their own magistrates and managed their own local affairs, and as we have learned elsewhere, they were similar to the New England town. The town or parish government of the Duke of York consisted of a constable and four or eight overseers elected by the freeholders. These officers together constituted the town court for the trial of minor causes. They also had legislative duties, and a species of town meeting for the election of town officers. They also chose the churchwardens. In Penn's charter, he was authorized to erect "towns, hundreds, and counties"; and it was a part of his original plan, that his province should be laid out into townships of five thousand to ten thousand acres, divided among ten or more families, according to their ability to cultivate such an area. Hence, "in order that the tracts bought by large purchasers might lie compactly together, he introduced into his warrants the clause, 'according to the method of townships appointed by me.'" And though this plan was not long pursued, the subdivisions of townships continued — especially in the central and western parts of the province — from the earliest date, 1684, to the provisions for their more definite creation by the act of 1803. It is impossible to ascertain with certainty, after all, whether their origin is due to the fiat of the proprietor or to the allotment of his surveyor, the only evidence of which is the map of said surveyor. "Sometimes they appear to be first acknowledged as townships by the appointment of officers for them."¹

In the early township, there were two overseers of the poor who were annually appointed by the magistrates. These officers were declared a "body politic," and with the approval

¹ *Philadelphia*, Allinson and Penrose, p. 155.

of two justices of the peace, they could levy taxes to be expended in providing for persons requiring relief. By the act of 1772, each town was allowed to choose one or two supervisors of highways who could lay a road tax when necessary, "not exceeding nine pence in the pound," for opening and repairing the public roads within their jurisdiction. As early as 1746, provision was made for inspectors of elections.

The Colonial Borough in Pennsylvania. — The name borough appears in the original charter of 1682, from the king to Penn. In it Penn was given "free and absolute power to divide the said country, and islands, into towns, hundreds and counties, and to erect and incorporate towns into boroughs, and boroughs into cities."

The borough, therefore, was simply an incorporated town, to which by the articles of incorporation certain municipal rights were given which were less in extent than those of a city. In England, those boroughs that have representation in parliament are known as parliamentary boroughs. Connecticut, Minnesota, New Jersey, and Pennsylvania are the only states in which the term has a legal significance. The usual officers of a borough, in the early days, were a burgess or mayor, and a council. The council was the legislative body, while the burgess was the executive. The same facts are true of the modern borough. Penn gave Philadelphia its first charter in 1691. In that charter he said that he had "by virtue of the king's letters patents under the great seal of England erected the said town into a borough and by these presents do erect the same town and borough of Philadelphia into a city." The above illustrates the manner of incorporation as practiced by the proprietary. The later development of the borough will be best treated when we take up the state government.

The Township-County System of Pennsylvania. — It will be remembered by the student that reference has already been

made several times to the township-county system of local government as the characteristic feature of the middle colonies. In our study of New York many of the features of this system have been explained. It now remains for us to explain briefly how the functions of the township and county were interlaced in Pennsylvania.

Freeman¹ has said that "the whole history of our land and our race will be read backwards, if we fail to bear in mind that the lower unit is not a division of the greater, but that the greater is an aggregate of the smaller." In the origin of society "the union of families produced the clan, known in its territorial aspect as the village mark, the union of the clans (disregarding intermediate divisions) produced the tribe, known in its territorial aspect as the pagus, or county, while the union of dependent pagi has produced the kingdom." This is especially true of New England. There the town was originally almost an independent state. The county came later as an aggregation of townships to constitute a judicial district midway between the justices' courts and the superior courts of the state. It never had a very distinct political character. The state and township between them possessed all the powers requisite to conduct public affairs.

In Virginia, on the other hand, the county was the unit of organization for local government. The large landowners reproduced in that state the local institutions of England in the seventeenth century. They revived the aristocratic, centralized type, while the New England colonists went back a thousand years beyond that time, and revived the local institutions of the early Saxons, when democratic in character.

The middle colonies represent the third or compromise type. In Pennsylvania under the Dutch, as we now know, there were towns and a species of local government, but of a very limited

¹ *Comparative Politics*, p. 119.

type. Under the Duke of York, the town becomes important as the military and fiscal unit, but nevertheless subject to the power and influence of the general courts, which courts also possessed considerable powers of legislation. When William Penn became the proprietor, a radical change was made, and the county became the element of first importance. During the first fifty years under the proprietary government, the county court of general sessions was the real center of authority and administered local affairs by officers whom it commissioned. With the increase of population, a more subdivided system of local government became necessary, and then it was that the township, the borough, and the municipality became prominent. The mutual duties and powers of the township and county in colonial days can be best learned by a study of three main departments of local government, — taxes, roads and bridges, and the poor. At first the tax rates and levies of the county were in the hands of the justices of the court and the grand jury. In 1696, six assessors were annually chosen for each county to act in conjunction with the foregoing officials in determining the public charges. This joint body appointed the county treasurer. In 1725, when commissioners were first chosen, the court lost its fiscal duties. In 1779, assistant assessors were appointed for each township to make returns of the taxable inhabitants and property, thus relieving the constable of these duties. The creation of these offices was a distinct gain for the township. The management of the roads and bridges is another illustration of the growing importance of the township. At first, the governor and council had the ordering of all public roads; while private roads were opened up at the instance of the court of quarter sessions. With the gradual subdivision of local government, the township was given the supervision of the highways, and the overseers and supervisors became township officers. The third and last subject to illustrate the system is the manner in which

the poor were taken care of in provincial times. It was not until 1771 that township officers, known as overseers of the poor, were created. It was made the duty of these officers to levy a limited rate on property, and a poll tax as often as advisable, for the support of the poor.

Enough has now been said to show the gradual distribution of powers between the township and county to give an idea of the Pennsylvania system as it developed before the Revolution. When the state governments are studied, the present highly developed condition of this intricate and widely extended system will be shown.

QUESTIONS

1. Which of the thirteen original colonies were the last to come into the possession of the English?
2. What disposition of the territory afterwards included in the middle colonies was made in the charter of 1606 to the joint Plymouth and London Company?
3. Into what three general classes can the thirteen colonies be divided with reference to their relations, respectively, to the crown of England? Classify them.
4. By what nations were the middle colonies founded, and what are some of the probable results of their origin?
5. During the first fifty years of the history of New York, what people were the only colonizers?
6. What name did they give their territory, what was its extent, and what was its capital?
7. When and by whom was the Hudson river discovered?
8. When and where did the Dutch make their first settlement? What was the motive for this settlement?
9. When and under what circumstances did the name of New Netherland appear?
10. When was the Dutch West India Company formed, and why?
11. What were some of the terms of the charter of this company, and by whom was it granted?
12. Describe the coming of the first agricultural colony to New Netherland. When?

13. Who was the first director-general of New Netherland?
14. The charter of the company provided for what form of colonization?
15. Who were the patroons, and what special privileges were granted to them?
16. What rights of local self-government were granted to the colonists?
17. What can you say of the charter of 1640 with reference to local government?
18. Describe the government of the villages on Long Island.
19. By whom were the various local officers of New Netherland chosen?
20. Who appointed the director-general and council?
21. What were the functions of the council?
22. When was New Amsterdam incorporated, and what officers were given to it?
23. How did England view the claims of the Dutch in America?
24. In what manner did England assume control of the Dutch colony? When?
25. What territory did Charles II. include in his grant to the Duke of York?
26. How did the Duke of York assume control of this territory?
27. What code of laws was enforced by the Duke?
28. When did this code go into operation in Pennsylvania?
29. Under the laws of the Duke, who appointed the governor and council?
30. What joint duties were imposed on these officials?
31. Describe town government under the Duke's laws.
32. What were the functions of the town meeting under his code?
33. Who was the head officer of the town?
34. What was the parish? Its functions? Its officers?
35. What were the duties of the church-wardens?
36. What were some of the minister's special parish duties?
37. What districts were named by the statute of 1691?
38. What characteristic type of local government had its origin and development in the middle colonies?
39. What three types of local government have we now learned as characteristic of the thirteen colonies? In what particular colonies did each of these types originate?
40. When did the essential features of the township-county system first appear?

41. For what town officers did this law provide?
42. What was one of the early duties of the supervisors?
43. Describe the origin of the county in New York.
44. When was New York actually divided into counties?
45. What was the nature of the early county?
46. When was the first representative assembly in New York called?
47. Who were members of the early assemblies?
48. Name the county officers at this time and state by whom they were chosen.
49. Describe the judicial system under the Duke's laws.
50. Describe the highest of these courts.
51. When was the first supreme court of New York created? What were some of its functions? Who constituted this court?
52. Compare the judicial system as reorganized by the statute of 1683, with the judicial system prior to that date.
53. In what way did the creation of the office of township supervisor bring about a division of the administrative functions of the county?
54. What were some of the dual duties of the justices of the peace that had their origin about this time?
55. When did New York become a royal province?
56. As a royal province, how were its affairs administered?
57. When and by whom was the first settlement made in New Jersey?
58. Under the Dutch, its laws were like those of what colony?
59. Was there much definiteness in the forms of government in New Jersey under the Dutch?
60. When did New Jersey become an English colony?
61. To whom did the Duke of York assign the colony?
62. What was the first English settlement in New Jersey? When and by whom was it made?
63. In what way did the new proprietors administer the government?
64. Of what persons did the legislative assembly consist?
65. What were some of the powers of the legislature?
66. What elements of popular government were possessed by the colonists?
67. Describe the government of the towns.
68. When was the province divided?
69. What names were given to the respective divisions? Who were the respective owners?
70. Describe the government of West Jersey.
71. When did New Jersey become a royal province? Why?

72. Describe the character of the government under the crown.
73. In what manner were the deputies to the assembly elected?
74. In what respects was the new government less liberal than the old?
75. In what way did the New Jersey county originate? When?
76. Describe the county court.
77. What changes in the judicial system of East Jersey were made in 1682?
78. In what respects did the county and township first begin to co-operate and to develop the township-county system?
79. Describe the essential functions of the early New Jersey town.
80. Describe the first colonizers of the present state of Pennsylvania.
81. Why is the early history of Delaware included with that of Pennsylvania?
82. Who was the first explorer of the Delaware as far north as the site of Philadelphia? When?
83. What country claimed the land on the Delaware?
84. Who were the first purchasers of land from the company?
85. What name was given to this tract?
86. When was the first colony planted in Swanendael?
87. How many persons were in the colony and who was the commander?
88. Give the history of this colony.
89. In what way was the first Swedish colony on the Delaware made? Describe it.
90. Which nation had the better claim to the country?
91. What name did the Swedes give to the country?
92. How did the Dutch view the Swedish settlements on the Delaware?
93. Describe the conquest of New Sweden by the Dutch. When?
94. How long did the Dutch retain the Delaware valley?
95. How was it governed under the Dutch?
96. What early towns on the Delaware had been founded by the Swedes?
97. What was the character of the Swedish government on the Delaware?
98. What were some of the powers of the Swedish governors?
99. What place in Pennsylvania was made the seat of government by the Swedes?
100. What do you know of local government under the Swedes?
101. Describe the government of the Dutch on the Delaware.
102. What were some of the duties of the "schout"?

103. Who was the chief executive officer on the Delaware?
104. What were some of the powers of the vice-director?
105. What were the duties of the council?
106. What circumstances brought about a division of the colony on the Delaware?
107. What names were given to the respective districts?
108. Describe the government of New Amstel.
109. What were the duties of the schepens?
110. Which was the highest court of appeals?
111. What special privileges were given to the city of New Amstel?
112. What can you say of the management of local affairs?
113. When was the "company's colony" transferred to New Amstel? Why?
114. What territory was included in this transfer?
115. When did the Duke of York become the owner of this Delaware region? How?
116. What were some of the features of the early government of the Duke of York on the Delaware?
117. What familiar local office was created by one of his early ordinances? What power was given to the town?
118. What place on the Delaware was made the capital?
119. What important change was made in its government?
120. What offices were created for its government?
121. What courts were now established on the river?
122. When were the so-called "Duke of York's Laws" extended to the Delaware?
123. By whom were they extended to the Delaware?
124. What changes did Governor Andros make in the courts, and otherwise?
125. What ancient municipal divisions did the Duke's Laws revive?
126. What can you say of the riding?
127. Of what importance was the township under the Duke's Laws?
128. What were some of the duties of the church-wardens? (See question 35.)
129. Who were the officers of the township and how chosen? (See question 33.)
130. What were the duties of the constable and overseers with reference to the taxes?
131. What can you say of the county at this time?
132. In what respects may the general courts of that day be said to anticipate the later complex township-county government?

133. When were the Delaware colonies transferred to William Penn?
134. What motives influenced Charles II. to grant territory in America to William Penn?
135. Sketch briefly the life of William Penn.
136. Why did the king decide to transfer the present state of Pennsylvania to Penn?
137. When did the king sign the charter to Penn?
138. Whom did Penn commission as his first deputy governor? When?
139. In what way was the title of the Duke of York, to this territory, extinguished? When?
140. What was the nature of the deed for the "three lower counties"?
141. How did Penn secure the Indian title to the land?
142. When was Philadelphia laid out?
143. What form of government did Penn establish?
144. What system of local government did Penn adopt?
145. What three counties did Penn first create?
146. What powers did he reserve to himself?
147. To whom did he entrust all legislation?
148. Where and when did Penn's first assembly meet?
149. What persons constituted the assembly and how were they chosen?
150. What persons constituted the provincial council and how chosen?
151. What were some of the duties of the council?
152. In whose hands did Penn leave the executive affairs of the colony when he went to England in 1684?
153. For what length of time was he deprived of his colony? When was it restored to him?
154. What changes in the government did he then make?
155. What changes were made by the charter of 1701?
156. When did Philadelphia become the seat of government?
157. When did Penn die, and who inherited the province?
158. Who, after his death, appointed the deputy governors, and the judges?
159. Who granted the salaries of the judges?
160. What inferior local officers were elected by the people?
161. In what respect is the origin of the county in Pennsylvania similar to its origin in the other colonies?
162. Explain why the credit of creating the first counties in Pennsylvania is due to the government of the Duke of York. When?
163. Did Penn's plan of government weaken or strengthen the town as a local unit?
164. What three important functions did he impose upon the county?

165. In what respects have the New York and Pennsylvania forms of local government exerted a marked influence?
166. Into what two tribunals was the county court divided in 1706?
167. How often were these courts held, and when, and where?
168. What was the supreme court, and what relation did it bear to the county court?
169. To whom did the act of 1722 give the power of naming the judges of the court of common pleas?
170. When was the "commissioner system" first created?
171. What other officers did this act of 1725 provide for?
172. How were the commissioners and assessors chosen?
173. Where is the earliest provision made for this annual county meeting?
174. What were some of the duties of these early commissioners and assessors?
175. When was the office of assistant assessor first created?
176. Briefly sketch the origin of the Pennsylvania township.
177. Where does the name borough first appear in Pennsylvania civil government and in what connection?
178. Define the borough in the terms of that charter.
179. In what states is the term borough found?
180. What were the chief officers of the early borough?
181. When did Philadelphia receive her first charter of incorporation?
182. What statement is made by Freeman concerning the local unit of government?
183. Define the clan, mark, pagus, and kingdom, respectively.
184. During the first fifty years of Penn's government, of what importance was the county court?
185. In respect to what three departments of local government do the county and township exercise dual powers?
186. Explain fully these dual powers and duties as they appeared under the proprietors.

PART III

THE STATES

CHAPTER V

TRANSITION FROM COLONY TO STATE, WITH AN OUTLINE OF THE VARIOUS CHANGES MADE AT THAT TIME IN THE COLONIAL GOVERNMENTS

From a rather prolonged study of the colonial governments, we now proceed to examine, in a general way, the different types of the modern state governments, but shall first briefly note some of the more important changes as they appear during the transition period. The thirteen original colonies were never really sovereign states. Prior to the Declaration of Independence, they each possessed such attributes of sovereignty as the Crown of England conceded to them. They were all dependencies of Great Britain, without representation in her councils, and were bound to her by relatively similar ties. The differing character of these ties manifests itself in the names that have been given to the three forms of colonial government. We have already given the classification of the colonies with reference to the respective forms of government, but will again repeat it. There were, first, the charter colonies, in which the governors were elected by the people, as in Connecticut, Rhode Island, and Massachusetts; second, the royal colonies, in which the governors were appointed by the Crown, as in New York, New Jersey, New Hampshire, Virginia, the Carolinas, and Georgia; third,

the proprietary colonies, as in Pennsylvania (including Delaware) and Maryland. The student should notice that the chief difference in these forms of government was in the manner in which the governor was chosen. The more remote from the king this office was, the more "popular" the government. Hence, the more closely the colony was bound to him, the more absolute was the government. Two tendencies, therefore, began to manifest themselves in the very beginning; first, the constant efforts of the colonies to popularize their respective governments; and second, the studied attempts of the king to centralize the governments in himself. In each colony, there were adherents of each of these antagonistic principles, so that, in an important sense, our later political differences may be said to have colonial roots.

In each of the colonies there was a legislative assembly elected by the people. One of the most important functions of all of these colonial assemblies was the control of the public money. In most of the colonies, the assembly was two-chambered, consisting of an upper and lower house. The upper house was an outgrowth of the governor's council.

In regard to the local government of the different colonies, we have already learned that there were three main types classified with reference to the unit of government. In the Southern colonies, we found that the county was the unit; in New England, the town; and in the middle colonies, a combination of both, called for convenience the township-county system. After the Declaration of Independence and at the time of the organization of the states under constitutions of their own making, these respective colonial systems were continued, and in most instances, were more highly developed. As we proceed further with our examination, we will also find that these different local forms are reproduced in the new states as they are respectively formed, but that each is reproduced chiefly on its own parallel or nearly so. That is to

say, the county system follows the southern parallels toward the Pacific; the township-county system becomes the characteristic type of the states organized to the west of Pennsylvania; while the town system is reproduced in the North-western states. Not that the new states exactly imitate the old, but that enough of the old is incorporated to clearly indicate the Eastern model. Almost contemporary with the Declaration of Independence, when a revolutionary continental congress assumed the scepter of government and forever set aside the dominion and sovereignty of the mother country, the different colonies began to exercise the rights of independent states. The national Congress usurped England's sovereign rights and the people of all the colonies voluntarily acquiesced in this usurpation. There was no national framework of government from the 4th of July, 1776, until 1781, when the Articles of Confederation became the government. The Congress was a mushroom without root or substance, and authoritative because it was the only tangible safeguard against the specter of English tyranny. It was held together and made to serve as a government until something better could be devised. Its mandates were obeyed, both because it was the people's own assembly, and because it made resistance to the Crown more efficient.

The sending of delegates to Congress by the colonies, in 1774, was a purely voluntary act, and when each of them severed its individual allegiance to the Crown and formed a state government, it tacitly transferred that allegiance to the revolutionary Congress. In this simple manner the new nation was born, and with its first breath it inhaled the essence of sovereignty from the newly formed states. The states simply exchanged a sovereign king for a sovereign congress, — a voluntary act, and on that account expressive of the fact that the ultimate abode of sovereignty is in the people and not in any ruler.

Organization of State Governments. — Bryce, in his admirable work, *The American Commonwealth*, has this to say of the uniqueness of our state governments: "The American State is a peculiar organism, unlike anything in modern Europe, or in the ancient world. The only parallel is to be found in the cantons of Switzerland, the Switzerland of our own day, for until 1815, if one ought not rather to say 1848, Switzerland was not so much a nation or a State as a league of neighbor commonwealths." As to their antiquity and origin, he calls the State constitutions the oldest elements in our political history, because they are the "continuations and representatives of the royal colonial charters, whereby the earliest English settlements in America were created, and under which their several local Governments were established, subject to the authority of the English Crown and ultimately of the English Parliament." The oldest political constitution in America was the Fundamental Orders of Connecticut adopted in January, 1639, by the inhabitants of Windsor, Hartford, and Wethersfield. At another place we have quoted Fiske, who says, in regard to this document, that it was "the first written constitution known to history that created a Government." From this it will be seen that written constitutions are not very old. In mediæval times, as civilization advanced, the Teutonic nations, impelled doubtless by their traditions, began to feel the reaction of the "masses against the classes," and the irrepressible struggle for self-government began. The prototype of the modern constitution is doubtless the "town charters" purchased from despotic rulers by enterprising commercial cities of the Middle Ages.

The student will remember our brief exposition of this antagonism in England. The democratic idea, with each forced concession, gradually became crystallized in a few famous documents, as the Magna Charta (1215), the Petition of Right (1628), and the Bill of Rights (1689).

With the settlement of America by the middle classes of English society, democracy became, in the New World, the dominant idea, so that its supremacy here is a natural consequence. One of the most potent safeguards for the preservation of abstract political ideas is their formulation into laws and orders. An illustration of this fact is found in the famous struggle of the Roman plebs against the patricians, which resulted in the "Laws of the Twelve Tables." How natural it was then for our colonial forefathers to embody their forms of government in constitutions. In the latter part of the year 1775, Congress specially addressed some of the colonies and advised them "to call a full and free representation of the people, to establish such a form of Government as in their judgment will best promote the happiness of the people, and most effectually secure good order in the province during the continuance of the present dispute between Great Britain and the colonies."

The Congress of 1774 had been recognized already by the colonies as their mouthpiece, and they had cordially endorsed the four addresses drawn up by it. It was, therefore, very easy for them to follow the much more emphatic utterances of the Congress of 1775. To the student, the fact that the hint to organize state governments first came from Congress, is quite significant, although it must not be forgotten that several of the colonies had incidentally asked advice on this subject. That they uniformly adopted the suggestion is equally significant.

States Organized under First Resolve of Congress.—The three colonies, namely New Hampshire, South Carolina, and Virginia,¹ which had been specially advised by Congress, followed its suggestion and formed constitutions of government before the Declaration of Independence.

¹ Curtis' *Constitutional History*, Vol. I, p. 82.

States Organized under Second Resolve of Congress. — The constitutions of the other states were formed under the general recommendation of Congress passed May 10, 1776, addressed to all the colonies. Under this resolve, the states of New Jersey, Delaware, Pennsylvania, Maryland, and North Carolina formed constitutions in 1776; New York and Georgia, in 1777. Massachusetts did not frame a constitution till 1780. Rhode Island simply passed a statute by her legislature in May, 1776, substituting allegiance to the colony for allegiance to the king. Connecticut passed the following statute: "Be it enacted by the governor and council and house of representatives, in general court assembled, that the ancient form of civil Government contained in the charter from Charles II., king of England, and adopted by the people of this State, shall be and remain the civil constitution of this State, under the sole authority of the people thereof, independent of any king or prince whatever; and that this republic is, and shall forever be and remain, a free sovereign and independent State, by the name of Connecticut."

Development of Constitutional Liberty in the Colonies. — There was a comparatively uniform development of constitutional liberty throughout the colonies; the same causes were in operation, so that, at the opening of the great struggle for independence, there was little debate concerning the forms of government for the different states. The principle of self-government was so woven into the fibre of the people of all the colonies that no one had the temerity to question it. But self-government with no safeguards would be reversing Anglo-Saxon principles, — hence constitutions were made to protect the people in their rights. As each colony had, relatively, the same governmental ideas, or drew from the same sources, the result was a marked uniformity in the systems of each.

Some Features of the First Constitutions in Several of the Leading States. — From the organization of the colonies as independent States in 1775-6 to 1781, the time when the Articles of Confederation went into operation, they were simply voluntary members of a revolutionary government. Some changes were made by the new constitutions in the forms of government.

New Hampshire. — In New Hampshire, the legislature was divided into two houses, the upper house or senate to be made up of deputies elected by the counties; the lower house, of deputies from the towns. All acts and resolves to be valid were required to pass both branches; all public officers, except clerks of courts, were to be appointed by the two houses, and all money bills were to originate in the popular branch. In 1790, a new constitution was formed.

South Carolina. — In South Carolina, also, the legislature was divided into two branches, and they jointly chose an executive styled a president, a commander-in-chief, and a vice-president. The president and the legislature had joint legislative authority. The two houses elected the judiciary, who were commissioned by the president, and held their offices during good behavior. This form of government was supplanted by a new constitution in 1790.

Virginia. — The constitution adopted by Virginia in 1776 provided for separate legislative, executive, and judiciary departments, and divided the first named into two branches, the house of delegates and the senate, — to be called the general assembly. The members of the house of delegates were chosen from each county, and one from the city of Williamsburg, and one from the borough of Norfolk. The senate consisted of twenty-four members chosen from as many districts. A governor and council of state were chosen annually by joint

ballot of both houses. The legislature appointed the judges, who were commissioned by the governor, and held their offices during good behavior.

Massachusetts. — Massachusetts, as we have stated, did not frame a constitution before 1780, yet was virtually a self-governing colony from 1774. Her independent course brought upon this colony the most severe coercive measures of the Crown. In 1774, royal tyranny culminated in the famous Regulating Act, which essentially changed the charter government. "This act vested the appointment of councillors in the king, and of all judicial officers, in the governor. The governor and council were empowered to appoint sheriffs, by whom jurymen were to be selected. Town meetings were forbidden to be held without the consent of the governor. At the same time, another law provided that persons might be transported to England for trial." As these arbitrary measures could not be carried out, the government was at a standstill. "In October, 1774, the governor had called for an election of deputies, but had dissolved the court before the time of meeting. The body met, notwithstanding, in Salem, and organized itself into a Provincial Congress, with John Hancock as president." This body appointed an executive committee called the "Committee of Safety." This council administered the affairs of the colony until 1780. In that year, a constitution was framed, ratified by a popular vote, and a state government organized, with John Hancock as governor.

Pennsylvania. — Pennsylvania, on the 28th day of September, 1776, adopted its first state constitution. It was framed by a convention of delegates chosen by the different counties, which met in Philadelphia on the preceding 15th of July. It went into immediate effect without a vote of the people. The convention that framed this constitution assumed authority to legislate in several matters foreign to the object

for which it was convened. Among other matters, it appointed a Council of Safety to carry on the executive duties of the government, approved of the Declaration of Independence, and appointed justices of the peace, who were required, before assuming their functions, to each take an oath of renunciation of the authority of George III., and one of allegiance to the state of Pennsylvania.

By the new constitution, the legislative power was vested in a general assembly of one house, elected annually. The supreme executive power was vested in a president, chosen annually by the assembly and council, by joint ballot, — the council consisting of twelve persons elected in classes for a term of three years. A council of censors, consisting of two persons from each city and county, was to be elected in 1783, and in every seventh year thereafter, whose duty it was to make inquiry as to whether the constitution had been preserved inviolate during the last septenary, and whether the executive or legislative branches of the government had performed their duties as guardians of the people, or assumed to themselves, or exercised, other or greater powers than they were entitled to by the constitution. They were also to inquire whether the public taxes had been justly levied and collected in all parts of the commonwealth; in what manner the public moneys had been disposed of, and whether the laws had been duly executed. For these purposes they had power to send for persons, papers, and records, and they could pass public censures, order impeachments, and recommend to the legislature the repeal of such laws as appeared to have been enacted contrary to the principles of the constitution. Their powers were to continue one year, and they might call a convention to meet within two years, if deemed absolutely necessary, for amending any article of the constitution that might appear defective, or for explaining any part that might be thought to be not clearly explained, or for adding such as might appear necessary for the

preservation of the rights and happiness of the people. The articles to be amended were to be published six months before election in order that the people might have the opportunity of instructing their delegates concerning them. This constitution had many defects, but remained in force until 1790.

New York. — The first constitution of the state of New York, adopted in 1777, provided for a chief executive and two separate legislative chambers. It provided for local county courts, a probate judiciary, and a high common law tribunal called the supreme court, side by side with a court of chancery. The senate was made the final court of appeal in both law and equity. This constitution, like most of its contemporaries, declared the people to be the only source of political power. The constitution of 1821 greatly simplified the administration of government.

New Jersey. — The last provincial assembly of New Jersey was prorogued in December, 1775. The provincial congress, elected in accordance with the ordinance of the preceding congress, convened in June, 1776, and on the 18th of July, assumed the title of the "convention of the State of New Jersey." An act of assembly of September, 1777, substituted the word "state" for the word "colony" in all cases of writs, commissions, indictments, etc. The new government provided for the three departments, legislative, executive, and judiciary, and divided the legislature into two branches. Few changes of importance in the local government were made in these early constitutions, and it will, therefore, be needless to extend our investigations at this time.

Colonial Politics. — At this point, a few words are in order concerning colonial politics.

A majority of the colonists being natural democrats, for reasons already stated, they were, during most of the time, in

an attitude of antagonism to all external coercive measures. This spirit led them to oppose all the centralizing measures of the Crown. On the other hand, the king and parliament were always sure of support from, not only crown officials, but from an influential class of hereditary aristocrats who coveted the same social orders in America as were in England. From these traditional antagonisms have grown modern political parties. The two great parties in England at that time were the whigs and tories. The whigs had been the ruling party, almost without interruption, from the time of William and Mary (1689) down to the accession of George III. (1760). They were the liberals in English politics and had shown a more democratic spirit than the tories. In 1760, George III. restored the tories to power, and a reaction in favor of greater centralization began. Our democratic forefathers naturally became whigs in spirit, although, of course, they could not affiliate. For the same reason, the aristocratic government party here in America became tories. This will explain the use of the terms whig and tory in America prior to and during the revolution. The tories supported the tyrannical measures of the king, and the whigs opposed them. The American whigs were the "rebels" in the eyes of the English government that were causing all the trouble. And the great leaders in the whig party in the mother country recognized them as brethren. William Pitt, Edmund Burke, and others, frequently made speeches in parliament in which they denounced the coercive measures of the king and his tory ministry, and encouraged the American whigs to resist royal aggressions. At the close of the Revolution, the friends of the new nation were whigs, and the tories had been either driven out of the country or into obscurity. Nevertheless the two rival principles of centralization and decentralization remained, and each sowed its seed in the new framework of government, and from that seed has sprung the only historic party differences worthy of

the name. The "loose" and "strict" constructionists, respectively, of the post-constitution period are the legitimate inheritors of these principles.

QUESTIONS

1. Were the colonies ever really sovereign states? Why?
2. Repeat the different kinds of colonial government.
3. What was the chief difference in these forms of government?
4. What effect on the character of each did its relation to the crown have?
5. What two tendencies manifested themselves early in the history of the colonies?
6. What similar features of government existed in all the colonies?
7. What effect did the new state constitutions have on the types of local government?
8. What is said of the reproduction of these local types in the western states?
9. What effect did the Declaration of Independence have on the question of sovereignty?
10. Was there a national framework of government during the Revolution, prior to 1781?
11. Why was the Continental Congress recognized as a national government, and why obeyed?
12. To what did the separate colonies give their allegiance when they severed their relations with the mother country?
13. What does the historian Bryce say of the uniqueness of our state governments?
14. Why does he characterize our state institutions as the oldest elements in our political history?
15. Which is the oldest of our political constitutions?
16. What is the prototype of the modern constitution?
17. What famous documents in English history embody the elemental principles of democracy?
18. What political principle became dominant early in our history? Why?
19. The formulation of the "Laws of the Twelve Tables" illustrates what valuable principle?
20. What suggestion, in the nature of a resolve, did Congress make to several of the states in 1775?

21. What circumstances occurring during the years 1774-1775, indicate that the states were learning to obey Congress?
22. What states were organized under the first resolve of Congress?
23. What ones under the second resolve? When?
24. What action did Rhode Island take?
25. In what way did Connecticut assert her sovereignty?
26. What can you say of the development of constitutional liberty in the colonies?
27. What was the relation of the states to the National Government from 1775 to 1781?
28. Describe the government of New Hampshire under her first constitution.
29. Of South Carolina, Virginia, Massachusetts, Pennsylvania.
30. What was the prevailing political tendency of the early colonists? Why?
31. What was the opposing principle called? Explain.
32. Compare the English whigs and tories.
33. What relation did the American whigs bear to the Revolution?
34. After the Revolution, what was the political situation?

CHAPTER VI

LEADING FEATURES OF THE STATE GOVERNMENTS

The State and the Nation. — There are forty-five states at the present (1901) time in the Federal Union, and each has a state government of its own. When the National constitution was framed in 1787, the great question of the hour was to so adjust the State to the Nation that the rights of each might be clearly defined. In so far as it was possible to attain such result, our National fundamental law embodies it. Under that constitution the states are constituent units in the Union, having certain powers common to each, and being deprived of certain other powers, some of which have been granted exclusively to the general government. It will thus be seen that, while the general government is absolutely supreme within its sphere, the states also have certain reserved powers which they alone have the right to exercise. All our civil and religious rights, the education of the people, the regulation of the suffrage, our domestic relations, questions of property, and many other matters, are in the custody of the state. This reservation to the states of certain duties and powers is so large, that, in so far as the average citizen is concerned, he has in his actual daily experience little to do with the general government. His own state and its laws touch him on all sides, and on that account he feels a direct and personal interest in it. To meet these conditions the state governments are maintained. The original states, having formed the general government by conceding to it the essentials of sovereignty, come

down to us as relics of colonial days; while the younger states are distinct products of our national life. The states in their relations to the United States are all equal, whether they belong to the original thirteen, or whether they have been formed since the adoption of the constitution. This equality has made the fundamental law of each almost exactly alike. Their points of difference are chiefly in their slightly varying county and township governments. And these differences, as we have already said, are, for the most part, due to the survival and recurrence of the several colonial types of local government. Woodrow Wilson¹ says: "The law of each State consists of two great parts, (1) the constitution, statutes and treaties of the United States, and (2) the constitution and statutes of the State. The constitution, statutes, and the treaties of the United States are the supreme law of the land, not so much in the sense of being set above the constitutions and laws of the States, as in the sense of being, by virtue of the principles of our public law, integral parts of the law of the States." The subordinate relation of the state to the general government is recognized by state laws. Indeed the constitutions of several of the states declare the constitution of the United States to be the fundamental law of those states.

How State Constitutions are Made and Amended. — "The constitutions of the revolutionary period were, in a few instances, enacted by the State legislatures, acting as a body with plenary powers, but more usually by the people acting through a convention, i.e., a body especially chosen by the voters at large for the purpose, and invested with full powers, not only of drafting, but of adopting the instrument of Government."² The usual method now, especially in the northern states, is to call a convention, which meets and drafts a constitution. The

¹ *The State*, Revised ed., p. 470.

² Bryce, vol. I, p. 432.

first step toward a new constitution is taken by the legislature, which submits the question of a constitutional convention to a direct popular vote. If a majority of the electors vote in favor of a constitutional convention, delegates are then soon after chosen by the people to frame a constitution. These delegates constitute the convention which meets, and as speedily as possible prepares the draft of the proposed constitution. When prepared, it is usually presented to the people for ratification or rejection at the polls.

In 1890, Mississippi enacted a new constitution by a convention alone. In Kentucky, after the draft constitution of 1891 had been accepted by a popular vote, the convention met again and made some alterations which were not submitted to the people for ratification. A constitution, when once adopted, is the fundamental organic law of the state, and all state authorities, legislative, executive, and judicial, are the creatures of, and subject to, it. State constitutions are all subject to amendment. The usual method is for the legislature to suggest the amendment, and submit its adoption to a direct vote of the people. In some states, amendments must be recommended by two successive legislatures before the people vote upon them. In New Hampshire, the legislature has no power to propose amendments; so the local authorities take the sense of the people every seven years as to the need of a revising convention.

The Central and the Local Government of the Modern State. — The civil government of every state consists of two parts: first, the central administrative system, which consists of the legislative, executive, and judicial departments; and second, the government of the local subdivisions of the state. The officials constituting the central government are elected by the people of the whole state, and on that account they have general jurisdiction, and are responsible to the whole state.

The officials of the county and the town constitute the machinery of the local government, and are responsible to these local areas, by which they are elected.

SECTION I. — THE CENTRAL SYSTEM OF STATE GOVERNMENT

The governments of all the states having been formed on the same model, we find in each the three great departments having coördinate powers. Indeed, this is one of the most obvious points of resemblance. They are alike also in the fact that these departments are “set apart and organized under the state constitutions with a very much greater particularity than characterizes the provisions of the federal constitution.”

The State Legislature. — The law-making function in all of the states is exercised by a legislative or general assembly consisting of two houses, the smaller called the Senate, the larger usually called the House of Representatives or the House of Delegates. In the Georgian constitution of 1777, and in the Pennsylvania constitution of 1776, provision was made for only one house, but in the constitutions of 1789 and 1790 respectively, both states adopted the plan of a two-chambered legislature. The states are uniform in giving these two bodies equal power in the making of laws. The constitutions of most of the states forbid special or private legislation, and limit the length and frequency of legislative sessions. Biennial sessions are now the rule, and the duration of the sessions varies in the different states from forty to one hundred and fifty days. Senators are now commonly elected for four years, and representatives for two years. The presiding officer of the more numerous branch is called the Speaker, who is elected by the members. The presiding officer of the Senate is usually a Lieutenant-

Governor, who corresponds, in the economy of the state, to the Vice-President of the United States. The plan of legislation includes standing committees, as in congress. The legislatures usually have control, within certain constitutional limitations, of the right of suffrage. In most of the states suffrage is limited to male citizens twenty-one years of age. Colorado, Wyoming, and several other states have granted the right of suffrage to women. Connecticut and Massachusetts confine the suffrage to those who can read the laws of the state. The legislatures have control of the revenue and expenditures of the state, and fix, within certain limits, the rate of taxation, and regulate its collection. They regulate, within their sphere, the duties and salaries not only of the executive and judiciary departments so-called, but of all the local subordinates wherever found. The only check apart from the state constitutions upon these tremendous powers, is the governor's veto. It should be remembered that all local officials, in the last analysis, are executive officers. In North Carolina the legislature appoints the justices of the peace.

Method of Choosing the Legislature.—Both houses are chosen by popular vote. Illinois and Michigan have proportional representation by means of the cumulative vote.¹ In Connecticut, the town is the representative unit, two members being chosen by every town having 5000 or more inhabitants; but senators are chosen by districts. In Massachusetts, every ten years, the general court divides the state into forty senatorial districts of adjacent territory, and each elects one senator; representatives are apportioned by the general court to the counties according to the number of voters in each, then the county commissioners, or a special board chosen for the pur-

¹ By this plan the elector may cast as many votes for any one candidate as there are representatives to be elected in the district, or may distribute his votes among the candidates.

pose, divide the county into districts without dividing any town or ward of a city. "These districts elect a number of representatives according to the number of voters they contain; but no district elects more than three. Thus the number of districts is not the same as the number of representatives."¹ In Pennsylvania, the state is apportioned every ten years by the legislature into fifty senatorial districts of adjacent territory, the smaller counties being combined in order to make up the requisite population, and from each district a senator is elected, the more populous counties having several senators. The members of the house are chosen by districts, but each county, no matter how small its population, elects one representative.

How State Laws are Made. — Legislation by means of standing committees is the rule in state legislatures as well as in the Federal Congress. These committees are usually chosen in the house of representatives by the speaker, and in the senate by the presiding officer or by the senate itself. Three separate readings of bills are required, usually on separate days, and in almost all of the states these bills must be signed by the governor before they become laws. In so far as the statute laws are concerned, the Swiss referendum² is not practiced in any of the states. The nearest approach to it is when some perplexing question, as temperance legislation or questions arising between labor and capital, threatens to unsettle party supremacy, and a timid legislature, shirking its delegated duty, by the device of a proposed amendment to the constitution, submits the question to a direct vote of the people. If the amendment carries, the verdict of the people becomes a part of the primary

¹ Martin, *Civil Government*, p. 153.

² In Switzerland, all important measures are usually referred back to the people for their approval at the polls before they become laws; this plan is known as the Referendum.

law, and is thus "out of politics." The plan of local option is also a species of referendum. Amending or adopting state constitutions is the best American illustration of the referendum.

Salaries of Members of the Legislature.—In all the states the members of both houses receive the same salary. In some states it is fixed at an annual sum of from \$150 to \$1500. In other states it is calculated at so much for every day during which the session lasts, varying from \$1.00 to \$8.00.

The State Executive.—The executive department of a state consists of a governor, a lieutenant-governor in a large majority of them, and various minor officials. *The Governor* is elected directly by the people. His term of office varies materially in the different states. In almost half of the states it is four years. In a majority of them the term is two years, although in two states the term is three years, while in Massachusetts and Rhode Island it is one year. The salary varies from \$10,000 in New York and Pennsylvania to \$1000 in Michigan. It is the duty of the governor to administer the laws of the state, and to carry out the judgments of the courts. In nearly all states he has the power of reprieving and pardoning criminals. He is commander-in-chief of the military forces of the state; appoints a number of officials; and in all but three states (Rhode Island, North Carolina, and Ohio) he has a veto upon bills passed by the legislature. In Rhode Island he presides over the senate.

The Lieutenant-Governor, who, in most states, steps into the governor's place if it becomes vacant, is usually also *ex officio* president of the senate. When there is no lieutenant-governor, the president of the senate or the secretary of state usually succeeds if the governor dies or becomes incapable.

Minor Executive Officers. The most frequent minor officers of a state are a secretary of state, an attorney-general, a comptroller, an auditor, and a superintendent of public instruc-

tion. Some states have various boards of commissioners. These various officials are either elected by the people, or are appointed by the governor.

The executive officers of several of the more important states will be given by way of illustration.

Massachusetts; Executive Officers.—*A Governor*, elected annually by the people. He is commander-in-chief of the military forces of the state; he has power, with the advice of the council, to pardon offenses against the commonwealth; appoints all judicial officers, coroners, and notaries public. His warrant, drawn by consent of the council, is required for the payment of any money out of the treasury.

A Lieutenant-Governor, who is elected annually. He is a member of the governor's council, and in the absence of the governor presides over its sessions. In case of the death or disability of the governor, he assumes the chair.

The Executive Council consists of a board of eight, annually elected by the people. "After each census, the legislature divides the state into eight districts, each comprising five contiguous senatorial districts; and one councillor is elected in each." The duty of the council is to advise the governor in the administration of the government; and its advice is recorded and signed. Its consent is required to all executive appointments, and to warrants drawn for the payment of money. In case of vacancy in the office of governor or lieutenant-governor, a majority of the council have power to perform their duties.

The Secretary of the Commonwealth is chosen annually by the people. He keeps the records of the state, attests the signature of the governor, and affixes the state seal. He publishes the laws of the state, and is the custodian of the originals.

The Treasurer and Receiver-General is also elected for one

year. He receives and pays out all the money belonging to the state. With the approbation of the governor and council, he invests the school fund. He has the custody of the weights, measures, and balances.

The Auditor. He is chosen annually. He examines all accounts and demands against the state. He keeps an account of public receipts and expenditures.

The Attorney-General is elected annually. He appears for the commonwealth in the supreme judicial court in all prosecutions for capital crime, and in the same court in all cases in which the commonwealth is a party. He is the legal adviser of the district attorneys, of the general court, whose legislative sessions he attends when invited, and consults with the other executive officers.

In addition to the foregoing executive officers in Massachusetts, there is a board of education, of agriculture, of health, of state charities, of prison commissioners, of railroad commissioners, of savings banks, and a state detective force.

Connecticut; Executive Officers. — The chief executive officer of Connecticut is a *Governor*, elected for two years, who receives an annual salary of \$4000. He has the usual administrative duties. He appoints notaries public, can convene the general assembly in extraordinary session, has power to grant reprieves, has power to veto bills, but his veto may be overridden by a majority vote. He nominates to the general assembly the judges of the supreme and superior courts, and appoints the various subordinate officials, as the state chemists, and the dairy commissioner; and with the consent of the senate, the insurance commissioner, railroad commissioners, fish commissioners, board of agriculture, of charities, harbor commissioners, commissioner of the bureau of labor statistics, directors of the state prison, and the members of the state

board of health. He is, *ex officio*, a member of several other important boards and committees.

Lieutenant-Governor. The lieutenant-governor is also elected for two years. His salary is \$500. He is president of the senate and has a deciding vote in case of a tie vote; he has also the right of debate when the senate is in committee of the whole. In case of the death, resignation, refusal to serve, impeachment, removal from office, or absence from the state of the governor, he performs the duties of the governor until another be chosen at the next periodical election for governor.

The Secretary of State is elected for two years and receives a salary of \$1500. He is the custodian of all the public documents and records of the state, and is keeper of the great seal of the state. In his office are filed certificates of the organization of all corporations, and annual settlements of the affairs of all joint-stock corporations. At the opening of every regular session of the assembly he calls the senate to order and administers the official oath to the senators present, and makes the formal proclamation at the final adjournment of the general assembly.

The State Treasurer is elected for two years and receives a salary of \$1500. He is the custodian of all moneys belonging to the state and disburses the same. He publishes an annual report of the condition of the state finances.

The Comptroller is elected for two years and receives an annual salary of \$1500. He adjusts and settles all public accounts and demands and prescribes the mode of keeping and rendering the same. He examines the condition of the finances and reports to the assembly all unfaithful conduct on the part of officials. He presents all claims in favor of the state against estates of insolvent and deceased persons. The management of the state printing and the care of the capitol are in his hands. He reports the receipts and expenditures of the state to the assembly.

Miscellaneous Commissioners, Boards, and Offices. The General Assembly of Connecticut has created at different times various executive boards and commissions which can only be enumerated here. They are as follows: A commissioner of the school fund appointed by the assembly; an insurance commissioner appointed by the governor; railroad commissioners appointed by the governor; bank commissioners appointed by the governor; state board of education, of which the governor and lieutenant-governor are members *ex officio*, the four other members being appointed by the assembly. Besides these there is a board of health, of charities, inspector of factories, commissioner of labor statistics, board of agriculture, dairy commissioner, fish commissioners, commissioners of pharmacy, and some other minor boards.

Ohio; Executive Officers.—The chief executive of Ohio is a *Governor* elected for two years. His salary is \$8000 a year. He enforces the laws, convenes the legislature in special session, commands the state forces, appoints his military staff, grants pardons, commissions state and county officials, can remove, with the assent of the senate, any officials appointed by him and it, serves on certain boards, and makes a variety of other appointments.

The Lieutenant-Governor is the next most important executive. He is elected for two years and receives a salary of \$800. He presides in the senate, and in case of the death or disability of the governor he succeeds to the office.

The Secretary of State is elected for two years along with the governor and receives a salary of \$2000 a year, besides fees for sundry services. He has charge of the laws and official documents, gathers and reports the state statistics, acts as secretary to certain boards, serves on certain other boards, and makes an abstract of the votes for candidates at presidential and state elections.

The State Auditor is elected for four years and receives a salary of \$3000. He keeps an account of all moneys in the state treasury and of all appropriations and warrants. He conducts the financial correspondence with the county authorities, and directs the attorney-general to prosecute revenue claims. He has also certain other duties in connection with the financial affairs of the state.

The State Treasurer is elected for two years and receives a salary of \$3000. He keeps account of all drafts received and pays the money into the treasury, makes a record of all warrants drawn on the treasurer by the auditor, and publishes monthly statements of balances.

The Attorney-General is elected for two years and receives a salary of \$1500 and three per cent on all collections made for the state, but the total is not to exceed \$3000 in all per year. He is the attorney for the state in all civil and criminal actions and is the legal adviser of the governor and other state officers and of the assembly. He is a member of various boards.

The State Commissioner of Common Schools is elected for three years and receives a salary of \$2000 a year. He visits and advises teachers' institutes, boards of education, and teachers, sees that educational funds are legally distributed, prepares and submits annual reports on the condition of the schools, and appoints the state board of examiners for teachers.

Three Members of a Board of Public Works are elected for three years, one in each year, at a salary of \$800 a year and travelling expenses. They manage and repair the public works (including canals) of the state, appoint and supervise minor officials, let contracts, and present annual detailed reports to the governor.

There is also a *State Dairy and Food Commissioner*, who is elected for two years. He receives a salary of \$1200 and travelling expenses.

Pennsylvania; Executive Officers.—Article IV, Section 1 of the constitution of Pennsylvania vests the executive power of the commonwealth in the governor, lieutenant-governor, secretary of the commonwealth, attorney-general, auditor-general, state treasurer, secretary of internal affairs, and superintendent of public instruction.

The Governor. The supreme executive authority is vested in the governor, who is elected to serve one term of four years and is not eligible to the office for the next succeeding term. He receives an annual salary of \$10,000. He has all the usual executive powers. He appoints, subject to the consent of the senate, a number of important officers, including various executive officers and notaries public. He can remit fines, grant reprieves, and on the recommendation of the board of pardons,¹ grant commutations of sentence and pardons to persons convicted of crime, except in case of impeachment. He has the power to veto bills, and can disapprove of items in the general appropriation bill. He can convene the senate to transact executive business and can call special sessions of the assembly.

The Lieutenant-Governor is elected for four years and, like the governor, cannot succeed himself. He receives a salary of \$5000. He presides over the senate. In case of the death, resignation, removal from office or disability of the governor the powers, duties, and emoluments of the office devolve upon the lieutenant-governor.

The Secretary of the Commonwealth is appointed by the governor and may be removed by him at any time. He is the keeper of the great seal of the state and affixes it to such instruments as the laws require. He keeps a record of the official acts of the governor and is the custodian of the laws passed by the assembly. He prepares the laws for publication; keeps

¹ The board of pardons consists of the lieutenant-governor, secretary of the commonwealth, attorney-general, and secretary of internal affairs.

the official bonds of all officers and notaries public whom the governor commissions; issues the charters of all corporations organized for profit, such as mining and manufacturing, and telegraph and railroad companies; prepares and sends to the county commissioners and the sheriff in each county the forms of the ballots for the general elections; is the custodian of the election returns; and is the official correspondent of the state with other states and with the United States. He receives a salary of \$4000 per annum.

The Attorney-General is appointed by the governor and holds office at the pleasure of the governor. He is the attorney and legal adviser of the executive department of the state. His salary is \$4100.

The Auditor-General is elected for one term of three years and is not eligible to the office for the next succeeding term. His salary is \$5200 per annum. He annually audits the accounts of the state treasurer and has general oversight of the financial affairs of the state.

The State Treasurer is elected for two years and cannot be chosen as his own successor. He is required to give a bond in the sum of \$500,000. He receives and is the custodian of all state funds and pays all warrants drawn by the proper authorities. His salary is \$6200 per annum.

The Secretary of Internal Affairs is elected for a term of four years. His salary is \$4600 per annum. His department includes a bureau of industrial statistics. He exercises certain supervision over railroads, banking, mining, manufacturing, and other corporations, and has charge of the records and documents pertaining to the public land office of the state.

The Superintendent of Public Instruction is appointed by the governor for a term of four years. He is the head of the public-school system. He commissions county, city, and borough superintendents and supervises the annual examinations of students in state normal schools. He publishes an annual

report and signs all orders for money paid out of the appropriation to the normal and common schools. His salary is \$4000 per annum.

The Secretary of Agriculture is also appointed by the governor, and his term is four years. His salary is \$3500 per annum. It is his duty to encourage the development of agriculture, horticulture, forestry, and kindred interests.

The Commissioner of Banking is appointed for four years and receives an annual salary of \$6000. He sees that all laws affecting banking are duly enforced. He appoints bank examiners, not exceeding ten in number, to assist in investigating and examining the affairs of fiscal institutions operating under state laws.

Minor Officials. Besides the foregoing executive officers there are various minor officials, such as the adjutant-general appointed by the governor, who is chief of the governor's staff and is his military executive officer; the state librarian, the superintendent of public buildings and grounds, the state printer, and various boards, bureaus, and commissions.

The State Judiciary.—The third great department of the central system of state government is the judiciary. The constitutions, functions, and relative subordination of the courts of the several states differ widely in detail, so that our description must be in the nature of a generalization. It must not be forgotten by the student that the state judiciary is entirely independent of the Federal, and that the latter courts have jurisdiction in cases involving federal laws.

Another distinction, also, should be noted, and that is that, outside of the superior courts of appeal, all state courts have a "local attachment." An eminent writer,¹ in discussing this point, says: "In most cases the judges are not appointed by any central authority, but are elected by the voters of the dis-

¹ Woodrow Wilson.

trict or circuit in which they hold court; they, like members of legislatures, may be said to have constituents. Their responsibility is thus chiefly a responsibility to the electors, a popular rather than an official responsibility." This peculiarity of our local system is what makes it difficult for the unskilled student to distinguish, in some instances, whether the judge of a district or common pleas court is a state or county official, or whether he belongs to the local or central organs of the state.

(1) **Ordinary Courts of a State.** — In some of the states the different grades of courts retain many of the old common law¹ names, but with the meaning somewhat modified. In other states new names have been given, and the laws have been fully codified. In all the states there are usually four grades of courts, viz., justices of the peace, county or municipal courts, superior courts, and supreme courts.

Justices of the Peace. The lowest court is that of justice of the peace, who has jurisdiction over all petty offenses, and over civil suits for small amounts. Mayors' courts and magistrates' courts have about the same jurisdiction, at least in so far as criminal cases are concerned. Their decisions, in almost all cases, are subject to appeal. It will be remembered that the office of justice of the peace has always been an important one.

County or Municipal Courts. These courts are a grade higher, and have both original and appellate jurisdiction in both civil and criminal cases. In New York, New Jersey, and Kentucky the county court retains the English name of quarter sessions. In Pennsylvania these courts are known as courts of common pleas, although when criminal cases are

¹ The system of laws in force among English-speaking peoples, and derived from England, in contradistinction to the civil or Roman law and the canon or ecclesiastical law. It consists of those principles and rules which are gathered from the reports of adjudged cases, from the opinions of text writers and commentators and from popular usage and custom, in contradistinction from statute law.

being tried, if the offense is a felony, it is organized as a court of oyer and terminer; if a misdemeanor, it sits as a court of quarter sessions. In five counties in Connecticut common pleas courts have been established. In that state there are also distinct courts that have jurisdiction over certain designated towns. There are also probate district courts in Connecticut. In Massachusetts the superior court, consisting of a chief and nine associates, holds two annual terms of court in each county. This court has original jurisdiction of all crimes and misdemeanors, and appellate jurisdiction of all offenses tried and determined before a police court, a district court, or a justice of the peace. In criminal cases its decision is final unless exceptions are taken to some decisions of law. There is also a county probate court. In New York the county as a judicial unit has two divisions; the first named tries civil causes, and the other smaller criminal causes. The county judge presides over the county court and, with two justices of the sessions, presides over the sessions court.

In Colorado and some other western states, there is a county court, with a judge of its own, which has limited civil and criminal jurisdiction, and, in addition, sits as a probate court. Above it is the district court with both appellate and limited concurrent original jurisdiction. Ohio has district, common pleas, and probate courts, all having more or less county jurisdiction. In South Carolina there is a county probate court. In New Jersey there are circuit courts in each county as well as an inferior court of common pleas. In Virginia there are county courts; also magisterial districts in each county presided over by justices of the peace.

Superior Courts. In the ascending scale, the next higher state courts are the superior courts, or "circuit courts," which is indeed the generally used name for courts of this grade. These courts have higher original jurisdiction and also hear appeals from the county, municipal, and other in-

ferior courts. In some states they are known as district courts. In some states these courts have special judges of their own. They usually have both civil and criminal jurisdiction.

Supreme Courts. In most of the states, the highest court of all is called the Supreme Court, although, in five states, there are courts above the supreme. The court of appeals in New York is an example of this; also in New Jersey, Louisiana, and Kentucky there are courts that may be so classed. The supreme courts are mostly courts of appeal, although, in five states (New Hampshire, Massachusetts, Rhode Island, New York, and New Jersey), they have original as well as appellate jurisdiction.

Almost all of the states have courts of equity in addition to the foregoing, although usually the regular judges try equity cases.

Judges. The judges of almost all of the state courts are elected by the people; the judges of the supreme courts, by the people of the whole state, while the inferior court judges, by the people of their respective local areas. In a few cases the higher judges are chosen by the state legislature or appointed by the governor. The term of judges ranges from two years to a tenure during good behavior. While custom and public opinion confine the choice of judges to professional lawyers, only nine or ten of the states require by law any identification with the legal profession. The judges of the courts in one state recognize the judgments of the courts of a sister state.

Officers of the State Courts. The sheriff and the clerks of the courts are the chief ministerial officers of the inferior courts. These officials are usually elected by the people and are, therefore, answerable to their "constituents" and not to the judge of the court. The clerk of the court in many of the states, keeps the records of the court, and the sheriff executes

its mandates. In addition to these officers there is a "district" or prosecuting attorney for the criminal courts of record. It is his duty to act as the attorney of the state in the trial of criminals. He prepares bills of indictment for the grand jury and tries the cases in the criminal court.

(2) **Legal Proceedings.** — A few words now on the trial of causes will properly supplement what has been said on the state judiciary. In all the courts, two kinds of actions are recognized — civil and criminal. A civil action originates in a breach of contract, which is an agreement to do or not to do a particular thing.

"A criminal action is one in which suit is brought in the name of the State, People, or Commonwealth, against an accused person for taking or endangering the life, property, or reputation of a citizen."

Proceedings in a Civil Action. In both civil and criminal actions the party suing is called the plaintiff, and the party sued the defendant. The different steps in a suit are as follows: first, the summons, which is a writ issued by the court at the instance of the plaintiff and served upon the defendant by the sheriff, summoning him to appear in court; second, the pleadings, which include the declaration or complaint setting forth the plaintiff's cause of action and the answer or demurrer of the defendant; third, the trial, which may be had either before the court alone or before the court and jury. In the court of record, the jury consists of twelve men chosen by lot from a list called a venire, drawn from the jury-wheel before the term of court begins. In the highest courts of appeal there are no jurors. For the trial, if needed, witnesses are subpoenaed by both parties. A judge presides. The plaintiff's side is first heard, then the defendant's. After all the facts are before the jury and they have received the charge of the judge, they retire to another room and deliberate. When they

reach a conclusion, they return to the court-room and report it; this is called their verdict. The last step is the entry of this verdict in the court record, where it then stands as a judgment against the loser of the suit. If the defeated party thinks justice has not been done, he may appeal to the next higher court. This court does not try the case over again, but simply examines all that was done in the lower court to see if any error was committed. If there was none, it affirms the judgment; but if any — even a slight — error was committed, it reverses the judgment and grants a new trial, which is conducted in the same way as the first. If a judgment for money is obtained against a party and he does not pay it, a writ called an execution against his property may be issued to the sheriff. This writ orders him to seize the debtor's property and sell it until he has sold enough to satisfy the judgment.

Proceedings in a Criminal Action. Indictment. The first step in the trial of an accused person is the indictment by a grand jury. The grand jury consists of twenty-three, and not less than twelve citizens summoned in every county usually four times during the year, to inquire what crimes have been committed. The usual method is for the district attorney to bring the fact of a crime to their notice. Witnesses, in behalf of the state only, are then called before them, and if twelve jurors vote that there is sufficient cause for putting the accused on trial, the indictment is then endorsed "a true bill" and sent to the court. If the defendant has not already been arrested and "bound over to court," a warrant is then issued and he is arrested and placed in jail; or, if not charged with a capital crime, he may give bail. The prisoner is then released until his trial. Most accused persons are arrested on warrants issued by justices or magistrates without waiting for the slow process of securing an indictment by the grand jury. In such cases the prisoner is given a short examination by the justice, and if he thinks the evidence produced warrants

it, he commits him to prison to await the action of the grand jury at the next regular term of the criminal court, or he may permit him to give bail.

Habeas Corpus. If the prisoner thinks his arrest and detention unlawful he, or any one in his interest, may apply to any judge of a higher court for a writ of habeas corpus. This commands the sheriff or any person having the prisoner in custody, to bring him before the judge. The judge, however, at this time does not try the case, but simply examines into it to see whether the arrest was lawful; if he decides that it was, he remands the accused to prison; if not, he orders him released. This writ of habeas corpus is the most famous in the law. It is the most important safeguard of the citizen against illegal arrest and detention. It is especially guaranteed by our Federal and state constitutions. It can be applied to all cases of unlawful restraint, as well as to persons charged with criminal offenses. The act known in England as the Habeas Corpus Act was not finally passed by parliament until 1679, but the essence of it was embodied in Magna Charta, by which the court of King's Bench, on demand, was compelled to issue it. As subservient judges frequently refused, it was finally enacted into a statute.

The Trial. In the trial of a prisoner charged with a crime, the district attorney is the lawyer for the state. The prisoner is first called upon to plead to the indictment, and he may plead "guilty" or "not guilty." This is known as the arraignment. If he pleads "guilty," he is sentenced; if "not guilty," the trial is then begun. Witnesses for the state are first called; then for the accused. A judge presides as in the civil court, and the prisoner has the constitutional right to be tried by a jury. A verdict is reached in the same manner as in civil suits, and if the jury find "not guilty," the court discharges him; but if they bring in a verdict of "guilty," the prisoner is then sentenced by the court.

Probate Courts. The estates of decedents and the interests of orphans are managed by what is known as the Probate or Orphans' Court. This court appoints administrators and guardians for minor heirs, and punishes them for breach of trust. Its duties are very important, and the rules governing it are very similar in all the states.

QUESTIONS

1. When the Federal constitution was framed in 1787, what question was very important?
2. Under the constitution, what is the relation of the states to the union?
3. What is meant by the reserved powers of the state?
4. What are some of these reserved powers?
5. Name certain powers withheld from the states.
6. Why is the citizen more directly interested in the laws of his state than in the laws of congress?
7. In what sense are the original thirteen states "relics of colonial days"?
8. In their relation to the United States, in what respect are the states alike?
9. Name some particulars in which the state governments are slightly dissimilar.
10. Give Woodrow Wilson's analysis of the state governments.
11. In what way were the state constitutions of the revolutionary period made?
12. What is the modern method of making state constitutions?
13. Name some exceptions to this rule.
14. What is the force of a state constitution?
15. How are constitutions amended?
16. Of what two parts does the civil government of every state consist?
17. How are those two classes of officials chosen?
18. What three great departments of government are common to all of the states?
19. Describe a state legislature.
20. What is said of Georgia and Pennsylvania concerning their first constitutions?
21. Name several particulars in which state legislatures are alike.

22. What is the general custom of the states regarding suffrage?
23. What is the general method of choosing the legislature?
24. Describe the Massachusetts plan. The Pennsylvania plan.
25. Describe the manner of making laws.
26. Describe the Swiss Referendum.
27. What have we in our method of making laws that bears some resemblance to the Referendum?
28. What is the salary of members of state legislatures?
29. What do you understand by the executive of a state?
30. What can you say of the salary of the chief executive of a state?
31. What are some of the duties of a governor?
32. Tell all you can of the duties of the lieutenant-governor.
33. Name the usual minor officials of a state.
34. Name the executive officials of Massachusetts, with their respective duties.
35. Those of Connecticut and their duties.
36. The executive officials of Ohio.
37. The executive officials of Pennsylvania.
38. What is meant by the "local attachment" of state courts?
39. What are the ordinary courts of a state?
40. What are the usual grades of courts in a state?
41. Describe the justices of the peace.
42. The county or municipal courts.
43. Describe the county courts of Pennsylvania, Massachusetts, and Connecticut, respectively.
44. Describe the county and district courts of Colorado and Ohio, respectively.
45. Describe the state superior or circuit courts.
46. Describe the state supreme courts.
47. In what way are judges of state courts usually chosen?
48. Name the usual officers of the state courts.
49. What two kinds of actions are recognized by the different courts?
50. What is a civil action? A criminal action?
51. Describe the proceedings in a civil action.
52. In a criminal action.
53. Describe a grand jury.
54. Describe the writ of Habeas Corpus.
55. What are probate courts?
56. Name the executive officers of your own state and compare them with those given in the text.
57. Name the courts of your own state. Of your county.

SECTION 2. — THE LOCAL SYSTEM OF STATE GOVERNMENT

The local government of a state is administered by means of municipal corporations¹ usually known as townships, boroughs, cities, and counties, each of which represents a definite area, and has certain officers through whom its affairs are managed. These local units are either a creation of the legislature or of the courts to which the legislature has delegated creative power. Like the states themselves they are supreme within their sharply defined spheres.

Functions of Local Government. — To the township, the city, and the county, either separately or jointly, is given the assessment and collection of taxes, the licensing of trades, the construction and maintenance of roads and bridges, care of the poor, the support of schools, police affairs, questions of sanitation, the ordinary administration of justice, the erection and maintenance of court-houses and jails, and various other matters that look to the peace and comfort of the people.

Types of Local Government. — The administration of these local duties varies in the different states, and what is true of the plan pursued in one state will not be true in another. Owing to this infinite variety of method, it will not be possible in a brief text-book to make a summary that will be wholly true of the local government of any one state. This much, however, is true: that notwithstanding local variations we are again face to face with the three well-known colonial types of local government, viz., the township, the county, and the mixed township-county system with which we are in the main familiar.

The "recurrence of type," a phrase we have already used, is as true in politics as in science. In the original states these

¹ An artificial person created by law.

types have survived, and in the western states they have been reproduced. Settlers from the older states colonized the newer ones. Wherever in the west settlers from New England have been in the majority, the township system of local government has taken root. In those states that were largely settled by Virginians and other Southerners the county system was adopted. Wherever men from Pennsylvania and New Jersey constituted a majority, the mixed township-county system, so familiar in these states, is the prevailing type. As we have before said, these local types have been reproduced most largely on their own parallels to the westward, just as men when emigrating usually follow parallels rather than meridians. It must be remembered, however, that while these types in the home states were an evolution and, in a sense, a product of their environments, the western counties and townships are an artificial creation. For this reason these local units in the west were geographical areas before they were civil corporations.

Origin of the Western Township. — Thomas Jefferson, chairman of a committee of Congress, in 1785, recommended that all public land should be surveyed into hundreds or townships of ten miles square. James Monroe suggested that the township be reduced to six miles square and that the sectional subdivision of the township be made one mile square, or 640 acres. This suggestion was adopted and in this way our present system of public survey came into being.

In making a survey the surveyors first establish a principal meridian. Twenty-four of these meridians have already been established, the first being the line dividing Ohio from Indiana. A base line is then established, crossing the principal meridian at right angles. Every six miles north and south of the base line parallel lines are established, and every six miles east and west of the principal meridian other meridians are established.

These parallels and meridians form township lines. Thus every township, not taking into account the convergence of the meridians on the north and their divergence on the south, is six miles square. Townships are numbered in order north and south of the base line, and in ranges east and west of the principal meridian. Each township contains thirty-six sections and is one mile square, and each section contains 640 acres. The sections are numbered from east to west and west to east alternately.

Homesteads. — By the homestead act of 1862, the head of a family, husband or wife, or any single person twenty-one years of age, who is a citizen of the United States, or person who has declared his intention of becoming such, is given the right to locate upon one hundred and sixty acres of government land that is unoccupied. But he must file his location certificate in the local land office and then live continuously upon the land for five years before he can secure title to it. The price is \$2.50 per acre for land within the limits of a railroad grant, and \$1.25 for land outside of such grants.

School Lands. — The government has set apart two sections in every township, the proceeds from the sale of which are to be devoted to the support of the public schools.

Modern Township Government. — In the states formed out of the national domain, the county and township, as we have already said, were generally laid out by the United States government as geographical areas before they became municipal corporations. They developed as corporations just as soon as sufficient settlers located in them to make government necessary. In the older states of the Atlantic seaboard they began as units of government rather than as geographical areas. In these states new townships are formed out of older ones generally by the county court or by the state legislature.

In Pennsylvania they are created by the county court when the citizens concerned petition the court to order an election and a majority of the citizens vote to form a new township. In New England to-day, as in its early history, the town is the true unit of political life. Until 1821 the towns were the only local political corporate bodies in Massachusetts, and until 1857 they formed, as they still form in Connecticut, the basis of representation in her assembly, each town, however small, returning at least one member. The primary assembly of the New England town is the town meeting, which is also a feature of the several western states formed on the New England model. Boston continued to be a town governed by this primary assembly of all its citizens until 1822. In Massachusetts every town is required by law to hold an annual meeting in February, March, or April. At this time the officers are chosen and the annual appropriations made. Other meetings may be held at such times as the selectmen may order. Every town meeting is held under a warrant signed by the selectmen, directed to the constable, requiring him to notify the legal voters of the town to meet at a specified time and place to act upon matters indicated in the warrant.

New England Town Officers. — In Massachusetts there is chosen by ballot in every town a clerk, who is required to record all votes cast at the meeting of the town; he keeps a record of births, marriages, and deaths; makes a record of the location of highways; keeps the election returns; and issues certificates of intentions of marriage. Every town also elects three, five, seven or nine selectmen by ballot, which officers have charge of the general business of the town. They represent the town in its relation to the county and the state, and in suits at law; grant licenses; have charge of the jury box, and the drawing of jurors; and act as assessors of taxes and overseers of the poor if other persons are not specially chosen

for the purpose. In many of the towns three or more assessors of taxes are chosen. The other town officers are a treasurer, constables, three or more overseers of the poor, a school committee, surveyors of highways, field-drivers, fence viewers, surveyors of lumber, measurers of wood, and sealers of weights and measures. In Rhode Island, each town at its annual meeting is permitted to elect a moderator, a clerk, a treasurer, a sergeant, a sealer of weights and measures, a town council consisting of from three to seven members, one or more auctioneers, collectors of taxes, corders of wood, packers of fish, pound-keepers, assessors, and various other minor officers, as constables, overseers of the poor, viewers of fences, and gaugers of casks.

In *Connecticut*, the town officers are a clerk, treasurer, collector, surveyor of highways, register of births, marriages and deaths; two to seven selectmen, assessors, a board of relief, grand jurors, constables, justices of the peace, and the other customary minor officers.

Township Officers in the Middle Atlantic States.—The functions of town government are very much alike in all of the states, but, except in those states founded on the New England model, the legislative functions of the town are more or less embryonic. That is to say, there is found in all the local units the well known tripartite machinery, the legislative, the executive, and the judiciary departments—yet they are not all equally developed. Where the town meeting survives, the legislative function is the prime feature of town government; but where it is not called into being, that function is divided up among several official boards.

New York alone, of the four so-called Middle Atlantic states, has the town meeting, at which are chosen the town officers. These officers are a supervisor, four justices of the peace, a town clerk, assessors, a collector, an overseer of the

poor, one or more commissioners of highways, three excise commissioners, and the constables. The date of the town meeting is fixed by the board of supervisors for any day between February 1st and May 1st of each year. The justices of the peace preside at the town meetings.

In *Pennsylvania*, there is no town meeting and local legislation, as the laying of the road and school tax, and the expenditure of the same, is left to the road supervisors and the school directors respectively. The usual officers of a Pennsylvania township are assessors, road supervisors who represent the township in its corporate capacity in all except school matters; six school directors who in addition to their duties in connection with the schools and school-houses, unite every three years in a county convention and elect a county superintendent of schools. Overseers of the poor are also township officers, but where there is a county almshouse, the care of the poor is turned over to county officers called directors of the poor. There is also a township collector of taxes, a town clerk, auditors, two justices of the peace, and a constable. The election in Pennsylvania of township officers is held in February of each year.

In *Delaware*, by the constitution of 1897, the hundred, which is the smallest local unit, is made the unit of representation; local affairs generally are managed by the legislature and by county officials.

New Jersey, in the management of its local affairs, follows the mixed township-county system of New York and Pennsylvania.

Township Government in the South.—The Virginia constitution of 1869 provided for representative township-county government on the New York plan, but, owing to local prejudice against such a radical innovation, this system was abrogated by the constitutional amendment of 1874, and each

county was then divided into not less than three magisterial districts, in each of which a supervisor, a constable, an overseer of the poor, and three justices of the peace are chosen biennially. The supervisors constitute the county board, and every magisterial district is divided into school districts. In each district, one trustee is appointed or elected, annually, for a term of three years. The "word" township was thus erased from the statute books, but the magisterial district is its counterpart. In West Virginia a similar system of local organization was instituted by the constitution of 1872, except that justices and constables are elected in the magisterial districts which correspond to townships. In North Carolina, the effort to make the township a body politic was not generally successful except as its powers are exercised under the supervision of the county board. Every township, however, is divided into school districts, for each of which a committee of three members is appointed by the county board of education; a constable is elected in each township.

Maryland has the parish system of local government instead of the township system. (See p. 61.)

Township Government in Several Representative Western States. — "There are great differences between the arrangements in one or other of the Western States. But it may be said, speaking generally, that in them the county is relatively less important than in the Southern States, the township less important than in New England."¹

While Pennsylvania, New Jersey, New York, Ohio, Indiana, and Iowa, represent the mixed township-county system, Michigan, Wisconsin, Illinois,² Minnesota, the two Dakotas, Nebraska, together with the New England states, represent the

¹ Bryce, vol. I. p. 593.

² In about twenty of the counties of Illinois, the county system prevails, while in the other eighty counties the mixed type prevails.

township type more or less largely. In each group, however, both the township and the county exist side by side and are never interrelated. The local officers that are distinctively township officers will now be given of several of these Middle western states.

In *Ohio* there is in each township one clerk, one treasurer, one assessor for each election precinct, three trustees, as many constables and road supervisors as the trustees deem sufficient, and as many justices as the county court of common pleas may determine, the number being subject to increase by the probate judge.

In *Illinois*, the township officers are elected at an annual town meeting held in April, but besides electing officers, a great deal of local miscellaneous business is attended to. The voting is over by two o'clock, and then the town meeting proper is organized, and hears the reports of the town officers. The meeting lays the various township taxes, votes money for roads and bridges, makes rules concerning fences, regulates or prohibits stock from running at large, and does various other things for the common good of the town. The usual town officers are a clerk, assessor, collector of taxes, supervisor who is *ex officio* overseer of the poor, two justices of the peace, and two constables; also pound-masters and highway commissioners. The township is the unit in school matters, although the township is divided into districts.

In *Michigan*, the township system prevails, but some of the functions of the Eastern town are here performed by the county. This state has also the village system of government which in form stands between the township and the city, and is similar to the borough system of Pennsylvania. Michigan was the first state west of New York to introduce the town meeting, the reason being that the township was organized before the county. The town meeting is held on the first Monday of April, at which time the various township officers

are elected, taxes determined upon, and reports are heard of the officers who have had charge of public money. The people also have power to make any order or by-law "for directing and managing the prudential affairs of the township as they shall judge most conducive to the peace, welfare, and good order thereof." The supervisor is the moderator of the meeting, and, while elections are being held, he constitutes, with the justice of the peace and the town clerk, the board of inspectors.

The Township Board in Michigan, made up of the supervisor, the two justices of the peace whose terms of office soonest expire, and the township clerk, has general administrative authority, even to voting money for the ordinary running expenses, if the town meeting neglects or refuses to do so. This board also audits the accounts of the town treasurer and of other persons having charge of township money. Within certain limitations it has power to remove several of the township officers. The supervisor, in addition to the duties already named, is the township representative on the county board, acts as assessor, and is the agent of the township in the transaction of all legal business. The other township officers are the clerk, treasurer, constables, justices of the peace, commissioner of highways, road overseers, and pound-masters. The educational system in Michigan provides for free primary schools. Each township elects two school inspectors who, with the township clerk, constitute the board of school inspectors. They divide the township into districts which take care of, and provide for, their own schools. Each district holds an annual meeting on the first Monday of September, when taxes are voted for the support of schools, and a board is elected for their general management. This board consists of a moderator, who is the chairman; the director, who is the secretary; and the assessor, who is the treasurer of the district.

In *Wisconsin*, the township officers consist of a clerk,

treasurer, assessors, constables, not to exceed three in number, as the town meeting may determine, a road overseer for each district, librarian (if a library has been established), three supervisors, and four justices of the peace.

Minnesota and *Dakota* are alike in having as township officers a clerk, treasurer, assessor, district road overseers, three supervisors, two constables, and two justices.

"The town board is variously constituted in different States. In New York, Illinois, Michigan, and Nebraska, it is composed of the supervisor, clerk, and justices of the peace; in Pennsylvania, of two or more supervisors; in Iowa and Ohio, of three trustees; in Minnesota, Wisconsin, and Dakota, of three supervisors; and in Kansas, of the trustee, clerk, and treasurer."¹ The powers of this board differ in the different states, but in almost all they have as one of their duties the auditing of the accounts of some or all of the township officers. In some of the states they have limited power of local taxation.

The School District.—The school district is ordinarily a sub-district of the township. In New England a "school committee" or "committee of visitors" is usually appointed for the general supervision of all the schools of the township; and, as a rule, sub-districts are created and placed in charge of officers or committees of their own. In Rhode Island, Connecticut, and Vermont these local committees are elected by the voters of the respective sub-districts; but the town may at any time abolish the district system and assume entire control. In Vermont each township has a superintendent instead of a committee, who, with all the other township superintendents of the county, meets annually to draft questions for use in the examination of teachers and to choose a county board of examiners.

The township-subdistrict plan for the management of

¹ Howard, p. 172.

schools prevails also in New Jersey, Pennsylvania, Ohio, Michigan, Illinois, Wisconsin, and Iowa; but with important differences in details. Thus, in several of these states, each township has a representative board. In New Jersey this board is composed of the district trustees; in Ohio, of the district clerks and the clerk of the township; in Wisconsin, of the district clerks alone; and in Iowa of the district directors. In Pennsylvania, each township elects six school directors, who lay an annual school tax and collect and disburse the same, fix the maximum length of the school term, employ the teachers and fix the amount of their salaries, purchase text-books for the schools, build and repair the school-houses, and receive and disburse the state appropriation for the support of the schools. In New Jersey the board of trustees is merely an advisory body called together for the purpose of conferring with the county superintendent relative to the management of the schools. In Michigan and Illinois, both the town board and that of the district are elective and independently composed.

In New York each county comprises one "school commissioner district" (some counties more than one) for each of which a commissioner is triennially chosen. It is his duty to divide his territory into districts, and the electors of each district are authorized to choose their own officers and manage their own educational affairs. The system of independent districts prevails in Kansas, Oregon, Colorado, Nebraska, Missouri, and many other Western states. The same is becoming true of the South. Already in Virginia, Kentucky, Texas, and Tennessee the people are choosing their own school officers. In Alabama the township is chiefly a development of the school system. In West Virginia the magisterial district is constituted a school district, and the trustees of the sub-districts are appointed by the district board. Women are eligible to school office in more than twenty-four states in the Union.

SECTION 3. — BOROUGHS AND CITIES

Boroughs; Villages. — In Pennsylvania and Connecticut, incorporated villages are called boroughs. A village is a small assemblage of individuals living in a community less than a city, and larger than a mere hamlet. It is the least populous kind of corporate municipality. In Pennsylvania, when the population reaches three hundred or more, and the inhabitants desire a different form of government from that of the township of which they have been a part, a majority of the freeholders must petition the court for incorporation as a borough. If the grand jury and judge of the county court approve, the village community becomes a borough. When a borough grows to a considerable size, the court may divide it into wards. The officers of a Pennsylvania borough are an executive called a burgess, a legislative body called the borough council consisting of seven members, six or more school directors, justices of the peace, constables, street commissioner, and the other officers common to a township.

In *Connecticut*, when a part of a town becomes thickly peopled and the inhabitants desire a more efficient government than the town affords, they secure a borough charter from the general assembly. Under it, they hold an annual borough meeting similar to a town meeting and elect a warden, from two to six burgesses, a clerk, treasurer, bailiff, and assessors. The charters of the different boroughs differ in detail. In New York and Michigan the "village" is a stepping-stone between the township and the city, and may be incorporated under the general law when three hundred persons or more occupy a township not more than one mile square. The village government is administered by a president and a board of three or six trustees elected by the people. The other officers are usually a clerk, treasurer, assessor, and con-

stable. In the charter of "Greater New York," the city is divided into districts called boroughs. The reasons for incorporating boroughs and villages are that as the population becomes more dense, sidewalks and paved streets become a necessity. Then, too, the houses being near together, there is greater danger from fire, and fire companies are essential; questions of sanitation also arise, and of sewers, and of a supply of water; hence the government becomes too complex for the simple machinery of the township. The act of incorporation of a borough, village or city, is usually embodied in a charter which describes the boundaries, designates what officers it shall have, and what shall be their powers and duties.

In some states, incorporated villages or boroughs are called towns, and their chief executive officer is called a mayor. It must be remembered that incorporated towns can only make such laws and regulations as relate to local matters. The act of incorporation makes the city or town an artificial person and gives it the right to sue and be sued in its corporate name; it also makes it a self-perpetuating body. It can buy and sell property, borrow money, and do such other things as pertain to its government. The township, the county, and the state itself, are corporations of the same sort. A state, however, is formed by the people when they adopt the constitution; the other municipal corporations above described, are formed either directly or indirectly by the legislature. There is another class of corporations, as banks, insurance companies, railroads, churches, etc., which are formed by individuals for business and other purposes, and only such persons as invest money in them by the purchase of stock or otherwise, can become members. Of a municipal corporation every one is a member who lives within its limits.

Cities.—When a borough (in Pennsylvania and Connecticut) or town reaches a certain population (ten thousand in Penn-

sylvania, twelve thousand for a town in Massachusetts), it is usually transformed by law into a city. This may be done by a general law or by special charter. In some states, cities are classed with reference to their population into cities of the first, second, and third class, and the form of government in the one class is slightly different from the other classes. The smaller cities have a less complex form. The government of cities in the United States is far from perfect, and public-spirited citizens are becoming alarmed at the growing political corruption. An eminent writer says "the growth of great cities has been among the most significant and least fortunate changes in the character of the population of the United States during the century that has passed since 1787." The census of 1890 shows that 29 per cent of the total population of the country now live in cities exceeding 8000 inhabitants.¹ The larger portion of the wealth of the country is also gathered in the cities. In most of them there is a large foreign element generally made up of those least desirable. When they secure the right of suffrage, they frequently sell their votes to the highest bidder, and in this way unscrupulous politicians manage to control the city government. Then, too, the current expenditures of a large city run away up into the millions, the handling of which is a temptation to jobbery and corruption.

Functions of City Governments.—The functions of city governments are so lucidly set forth by Bryce in his *American Commonwealth* that we quote *in extenso*: 1. Those functions which are delegated by the state out of its general coercive and administrative powers, including the police power, the granting of licenses, the execution of laws relating to adultera-

¹ The census returns for 1900 show that the combined population of municipalities in the United States now constitutes forty-seven per cent of the whole number of people in the country. There are now ten thousand such incorporated municipalities in the United States as compared to 7578 in 1890.

tion and explosives. 2. Those which though done under general laws are properly matters of local charge and subject to local regulation, such as education and the care of the poor. 3. Those which are not so much of a political as of a purely business order, such as the paving and cleaning of streets, the maintenance of proper drains, and the provision of water and light. The foregoing include the functions of government peculiar to all of our cities. Education is frequently detached from the general city government and entrusted to a separate board. "Taxes in cities as in rural districts are levied upon personal as well as real property; and the city tax is collected along with the county tax and State tax by the same collectors."

Officials of a City. — In all of our cities, as in all of our municipal corporations, the three departments of government, viz., the executive, legislative, and judiciary departments, exist side by side. The ordinary governmental machinery of a city is as follows: 1. A mayor, who is the chief executive and is elected directly by the voters. In many of the states, all city, county, and township officers are elected in the spring of the year. 2. Various executive officers or boards, who are either elected by the people, appointed by the mayor, or by the city legislature. 3. A legislature, consisting usually of two chambers, and frequently designated as the city council. 4. Judges, who are usually elected by the city, or sometimes appointed by the state. The mayor usually holds office from one to five years, and receives a lucrative salary.

The Government of Greater New York. — In 1897, by legislative enactment, a charter was given to the City of New York, which is notable in the particular that more of "home rule" is conceded by the state than was ever before done in the United States. This charter also greatly enlarges the powers of the mayor, and prohibits the granting of franchises in per-

petuity, stipulating that they shall revert to the city at the end of twenty-five years. It also provides for partial minority representation.

(a) *Terms of the Charter.* The city as consolidated by this charter, comprises the county of Kings, the county of Richmond, the city of Long Island City, the towns of Newton, Flushing, and Jamaica, and the westerly portion of the town of Hempstead, in the county of Queens.

(b) *Boroughs.* The city is divided into five boroughs: 1. Manhattan, and its naturally related small islands; 2. the Bronx, which includes all of old New York north of Harlem; 3. Brooklyn; 4. Queens, that portion of Queens county that was consolidated with New York; 5. Richmond, all of Staten Island. Each borough elects its president for a term of four years, at a salary of \$5000 a year for the boroughs of Manhattan, Brooklyn, and the Bronx, and of \$3000 for those of Queens and Richmond.

(c) *The Legislative Functions.* The municipal legislature consists of two chambers. The upper chamber is the council, consisting of twenty-nine members, who are elected for four years from districts. The lower chamber is the board of aldermen, whose sixty members are elected for two years, one member being elected from each state assembly district. Ex-mayors of the consolidated city have seats in the council, but have no vote. The president of the council is elected by the city at large for a term of four years, and receives an annual salary of \$5000. He has the usual powers of such officers and acts as mayor in case of the mayor's illness or absence from the city. The president of the board of aldermen is elected by the board itself from its own membership. The council appoints a city clerk whose term is six years, and annual salary \$7000. The municipal legislature has control over ordinances properly municipal, such as amending and repealing police, health, park, fire, and building regulations; authorizing the

establishment and construction of markets, parks, parkways, driveways, boulevards, bridges, and the acquirement of additional water-works, for all which improvements it can issue bonds; granting railroad and ferry franchises; assigning places for holding the various courts, and fixing salaries of city officials on recommendation by the board of estimate. It is also the trustee of municipal property.

(d) *The Executive.* The chief executive, called the mayor, is elected for four years at an annual salary of \$15,000. His powers and responsibilities are large.

(e) *Administrative Departments.* Administration is conducted under the following departments: Finance, law, police, parks, buildings, charities, correction, fire, docks and ferries, taxes and assessments, education, and health. A comptroller, elected for four years, is at the head of the finance department. The head of the law department is the corporation counsel, who is appointed for four years by the mayor. The head of the fire department is a commissioner appointed for six years. A bi-partisan board of four commissioners, appointed for four years, is at the head of the police department. The department of education is organized under a combination plan — the departments of Manhattan and the Bronx retain the old system of New York City, and Brooklyn is continued as before. There are four school-boards: in Manhattan and the Bronx, twenty-one school commissioners; in Brooklyn, forty-five; in Queens, nine; in Richmond, nine. There is also a central board of education consisting of nineteen members. The health department is under five commissioners; also the department of taxes and assessments. The board of public improvements consists of seven departments, presided over by six commissioners appointed for six years. The department of charities, of parks, of buildings, respectively, have each three commissioners. The department of correction is in the hands of one commissioner. As almost all of the heads of

these various departments are appointed by the mayor, it will readily be seen that his powers are very extensive.

(f) *The Courts.* Municipal courts take the place of civil courts. There are eleven in Manhattan, five in Brooklyn, three in the Bronx, two in Queens, and two in Richmond. The justices are elected and serve for ten years. These courts have jurisdiction in cases involving \$500 or less. Justices of inferior courts of criminal jurisdiction are called city magistrates; they are appointed for ten years, and they number in Manhattan, seven; in Brooklyn, six; and in each of the other boroughs, two. For the court of special sessions there are ten justices.

The foregoing outline of the government of New York City is given, because of the uniqueness of its municipal privileges, and because it is not only the metropolis of our country, but is, with one exception, the greatest city in the world.

SECTION 4. — THE MODERN COUNTY

(a) **In the South.** — Modern county government appears in its purest form in Virginia and the South. This is to be expected when we remember that, in colonial days, it was the only organ of local government. To-day, although the township has begun to show itself as an element in the system of public schools, the county stands almost alone in the management of local affairs. It has a complete set of officers acting under a board of county commissioners. Other county officers are a treasurer, auditor, superintendent of roads, superintendent of education, and superintendent of the poor. These officers are in almost all instances elected by popular vote.

The county on its judicial side has a sheriff, who is also the tax collector; a clerk, surrogate, coroner, and states-attorney, who generally acts for a judicial district which includes several counties. The functions of the southern county include

the maintenance of jails and poorhouses, the constitution and repair of highways, and, usually, the oversight of schools, together with the control of all local matters.

(b) **In New England.**—When we pass from the south to New England, we go from the most highly developed and purest type of county government to the least developed type that our state governments exhibit. We are now speaking of the county or its prototype under whatever name, as an organ of local government. In New England, where the township or town is the greatest organ of local government, the county is limited in its administrative functions, generally speaking, to the maintenance of such county buildings as the jail and court-house, the granting of certain licenses, and the partial supervision of the highways. In Rhode Island, the county is merely a judicial area for the holding of courts, and for the election of sheriff and the clerks of the supreme court and the court of common pleas. In Vermont, there is a court in each county which has some exclusive powers connected with the highways. There is also a county commissioner chosen annually whose duty it is to appoint agents in the various towns for the sale of spirituous liquors for medicinal, chemical, and mechanical purposes. In Connecticut, the county has reached a higher development. There are in each county three commissioners who are appointed by the assembly, to whom is given the care of the county property, the oversight of the county jail, with the power within certain limits to levy a tax for the repair of the same. The other county officers are a sheriff who is elected every four years, a coroner appointed every three years by the judge of the superior court on recommendation of the state's attorney; and a treasurer nominated by the commissioners. The fiscal matters of the county are in the hands of a joint assembly of the state senators and representatives of the county. This body meets

every two years at the state capital. It makes appropriations for any items of county expenditure, and estimates and apportions the county taxes. In New Hampshire, the officers of a county are a sheriff, treasurer, solicitor, register of deeds, register of probate, and three commissioners. The commissioners have little authority, except what is given by the "county convention," which is made up of the representatives of the towns of the county. This body levies the county taxes, and authorizes the commissioners to issue bonds and to repair county buildings whenever the cost shall not exceed a fixed sum. The commissioners have the care of the county property and paupers, and can lay out highways. In Maine, the powers of the county are more important. Here the entire supervision of the financial business is entrusted to these elective commissioners. In Massachusetts, the county appears as early as 1643, but was formed chiefly for judicial purposes. To-day, the county has reached a higher development in Massachusetts than in any other New England state. It is a body corporate organized under the authority of the state and consisting of a group of adjacent towns. It has no legislative power, hence its officers are chiefly executive. Each county has three commissioners who are elected for three years, one retiring every year. Two special commissioners are chosen every three years. The commissioners erect and repair the county buildings, represent the county in its corporate capacity, lay out and control highways, and have charge of houses of correction. Other county officers are a treasurer, register of deeds, register of probate, sheriff,—all elected by the people, and medical examiners appointed by the governor.

(c) **In the Middle Atlantic States.**—In New York, Pennsylvania, and New Jersey, the mixed township-county system has come down to us from the days when they were colonies.

In these states, local affairs are more nearly equally divided between the county and the township. In New York, the township may still be said to have the ascendancy, while in Pennsylvania, the county is the more important.

Bryce, in localizing the three types or systems of local government, divides the states into Northern, Middle, and Southern. In the Northern, which, beginning at the Bay of Fundy, stretches west to Puget Sound, he makes the township, with its town meeting, the preponderating unit of local government. In the Middle zone, extending from New York to California, inclusive, he places the mixed county-township system, but says that in some states of this zone the county is the more important and dwarfs the township; in some the township seems to be gaining on the county; but all are alike in this, that you cannot lose sight for a moment of either the smaller or the larger area, and that both areas are governed by elected executive officers. The third zone includes all the Southern states, in which the county is the predominant organism, though here and there school districts and even townships are growing into significance. The more nearly the township and county balance one another in local influence the more nearly will the government illustrate the ideal "mixed system." But the balancing must be of the proper kind. To balance the judicial function, for instance, against the representative, would be simply arraying one phase of local administration, so to speak, against another without blending them. The power of taxation is both a county and a township right in Pennsylvania, while in Connecticut almost the entire fiscal affairs of the county are in the hands of a joint assembly of the state senators and representatives of the county, and these officials belong, by our classification, to the central system of state government. As Pennsylvania is the best illustration of the type, we will outline the workings of local government in that state. Penn, in the very beginning organized county

government, then divided the county into townships. He also adjusted his local government to the conditions as they existed under the laws of the Duke of York and under the Dutch. The "mixing" of types began at the very outset of Penn's dominion. To-day new counties may be formed from parts of the old by legislative enactment. To the county is given representation in the general assembly, and, in the more populous ones, legislative districts are formed consisting of wards in the cities and townships in the county. Through an elective board of commissioners, three in number, the county tax rate is fixed, but it is collected by the township collectors. The township, city or borough assessors place the valuation on taxable property, but the commissioners hear "appeals" and can readjust the valuation of those who feel aggrieved. The county, also, through its board of commissioners, can help the townships in constructing bridges and highways where the expense is too great to be borne by the township. In school affairs, the school directors who are township officers, meet triennially in a county convention to elect a county superintendent of schools. The justice of the peace, while a member of the state judiciary in the sense that he is a part of the great central administrative system, is a local judicial officer elected by the township, thus making him a township official; nevertheless, his jurisdiction extends throughout the county, and, in a limited sense, throughout the state. Even in the assessment of property for the purpose of taxation, which is, generally speaking, the function of the township through the township assessors, the county assumes a share in this prerogative, because a mercantile appraiser, appointed by the county commissioners for the whole county, assesses the business of merchants, banks, and hotels. Other officers of the Pennsylvania county are the sheriff, treasurer, prothonotary, register, recorder, clerk of the courts, directors of the poor, jury commissioners, auditors, surveyor, and coroner. The judge of the courts, in

that he is elected by a county or district, may be classed as a county officer, but we prefer to include him, as we have done, in the central administrative system. The district attorney is the prosecuting attorney for the state in all criminal actions. He is elected by the county electors.

In *New York*, the executive and judicial officers of a county are a county judge, a surrogate in counties of forty thousand population or more, a sheriff, a clerk, a district attorney, county treasurer, superintendent of the poor, or equivalent officer, and usually four coroners. The legislative body of the county is the board of supervisors, which is composed of one supervisor from each town in the county. This board has many duties. It attends to the collection of taxes, and canvasses the returns of elections as made to it by the inspectors of elections in the several towns. The composition of this board, made up as it is, of town officials, to which is given county functions, well illustrates the "mixed system" of local government.

SECTION 5. — THE WESTERN COUNTY

(a) **Its Origin.** — On October 5, 1787, General Arthur St. Clair was chosen governor, and Winthrop Sargent, secretary, of the Northwest Territory, but they did not assume control until July, 1788.

This latter date marks the beginning of the formal reign of law over that vast territory, but already, three months before this date, local self-government had been established on the Muskingum by a band of soldiers of the Revolution, who founded the town of Marietta. No public authority had been as yet proclaimed in the territory. The settlers, true to their Anglo-Saxon instincts, proceeded to enact laws for their own security, and appointed Return Jonathan Meigs to administer them. Similar measures for self-government were resorted to at Lonsantiville, the future Cincinnati, which was

founded at the close of the same year. As these colonies were established right in the midst of hostile Indians, provision for military defense became the first duty of the embryo government. On the 25th of July, 1788, Washington county, the oldest county west of Pennsylvania, was created by proclamation of Governor St. Clair. In 1790, Hamilton, Knox, and St. Clair counties were organized; Wayne, in 1796; Adams and Jefferson, in 1797; Ross, in 1798. "Of these, Knox corresponded roughly to Indiana; St. Clair, to Illinois and Wisconsin; while Wayne comprised northern Ohio and Indiana, the northeast corner of Illinois, the eastern edge of Wisconsin, and all of Michigan."¹ County courts of quarter sessions and common pleas were at once provided for; and a clerk, sheriff, and judges of probate and common pleas, were soon after appointed. On the second of September, 1788, with much ceremony, the court of common pleas was inaugurated. In accordance with the provisions of the Ordinance of 1787, the judicial administration, as then instituted, was wholly centralized in the governor. The right of appointment of all the officials was in his hands. Besides the sheriff, the various officers of the county were the coroner, a treasurer, a recorder of deeds, a judge of probate, and the justices of the county.

(b) **The Early Judicial System.** — The early judicial system of the county consisted of a court of common pleas, composed of not less than three nor more than five judges appointed and commissioned by the governor; a court of general sessions, composed of justices of the peace commissioned for the county at large, of whom not less than three nor more than five were specially designated to hold the court; a court of probate, and a court of orphans, which were invested with the usual powers; and lastly, the courts of the single justices of

¹ Howard, p. 413, note.

the peace. A barbarous criminal code was enacted, and every county had its stocks, pillory, and whipping-post.

(c) **Civil Administration of the Early County.**— In those early days the general administration of the civil affairs of the county was entrusted to the justices in quarter sessions. To them was given the care of the highways, the licensing of taverns, and the fixing of the rates for ferries. They also had charge of the poor; they divided the county into election districts, instituted new townships, and appointed clerks, constables, overseers of the poor, fence viewers, and other township officers. At first, the justices supervised the taxes and finances of the county, but ultimately this function was entrusted to a board of commissioners, one or more for each township, who were appointed by the common pleas judges. These commissioners were required to meet annually, and apportion the tax upon the respective towns according to "wealth and numbers." The amount for each town was assessed by three town assessors, likewise appointed by the court of common pleas. In 1795, the Pennsylvania plan was introduced. By it an assessor was elected in each town, for which also three commissioners were to be appointed by the quarter sessions. The assessors and commissioners, meeting jointly, constituted the board of audit. In 1799, a county board of three commissioners was created, and entrusted with the levy and assessment of taxes, and the auditing of claims. These various steps indicate the development of the county commissioner system in the West. It will be noted that, when local government was introduced into this territory, it lacked the most important element of popular government. That is to say, everything was centralized in the governor or the courts, and the people were deprived of the right to elect their own local officers. This is a strange retrogression, and not easy to explain. After Ohio became a state, a much more popular

system was introduced. The old courts were at once abolished, and their jurisdiction and powers were vested in new courts of common pleas consisting of three associate justices in each county, presided over by a circuit judge. County officers were also made elective, and in 1804 an elective board of three county commissioners was instituted. In this body was vested the fiscal and general administrative authority of the old quarter sessions. Indiana and Illinois, after attaining statehood, introduced the free county with elective officers and a board of commissioners.

(d) **Genesis of the Michigan County.**—The evolution of county organization in Michigan was different from that of the rest of the Northwest Territory, hence a special paragraph will be devoted to it. Beginning with the first French settlement at Detroit in 1701, Michigan was ruled chiefly by martial law administered by the commandant under the superior jurisdiction of the governor of Canada. Manors were established, in accordance with feudal custom, as early as 1707. Judicial authority was exercised by a deputy intendant, who was the local receiver of the king's revenues. He also frequently discharged the duties of royal notary. "This office practically combined the duties of court clerk and register of deeds. The notary kept copies of all papers witnessed by him, registered marriage contracts, and was connected with every transaction in business and social life."¹ "Minor civil disputes were often settled by the private arbitration of neighbors; while petty misdemeanors were referred to the priest who might impose spiritual penalties."² After the English conquest no attempt was made to provide civil government for these settlements. The commandant at Detroit was made the only representative of the crown. He was judge as well

¹ Farmer, *History of Detroit and Michigan*, p. 172.

² Howard, p. 430.

as legislator, although he could delegate his authority to another. In this way, a court of arbitration was established in 1767, with a justice of the peace at its head. By the act of 1774, the famous Quebec Act, the entire Northwest Territory was added to the province of Quebec. A governor-general with a council consisting of from seventeen to twenty-three members — all appointed by the king — constituted the government. Legislative authority was given to the governor and council. In criminal affairs the English law was to prevail, but in civil, the French. The governor had judicial authority. By Jay's treaty of 1794, Detroit and all other Western posts still held by the British were surrendered to the United States, and in 1796, Acting Governor Sargent of the Northwest Territory laid off the county of Wayne, which embraced all of Michigan. Courts of quarter sessions and common pleas were then established. Territorial government began in 1805, and from this time on county organization passed through several stages of development. First, four judicial districts were created, in each of which originally a court was held by one of the territorial judges. Immediately below this was the single justice of the peace, possessing limited criminal and civil jurisdiction. Appeals lay from the justice of the peace to the district judges, thence to the court of the territory. After 1807, the district courts were held by a chief justice and two associates, and to them were entrusted some general administrative functions that had been exercised by the courts of quarter sessions, thus making the district a rudimentary county. But in 1810, these new courts were abolished. In 1815, General Cass reconstituted the county of Wayne, and at the same time created a county court, composed of a chief justice and two associates. He gave this court "original and exclusive jurisdiction in all civil cases both in law and equity," when the matter in controversy exceeded the jurisdiction of a justice of the peace, and did not exceed one

thousand dollars. To this court was also given criminal jurisdiction in all criminal cases except capital crimes. Many new counties were now formed, and to each was given a sheriff, coroner, treasurer, and judge of probate—all appointed by the governor. A county court of general quarter sessions was created in 1817, composed of the county justices. To this court was given supervision of finance and taxation. They nominated the county assessor, acted as a board of audit and equalization, and they were given power to divide the county into townships. To this county court, however, was given the revision of the road-tax lists, and the licensing of taverns and ferries. The court of quarter sessions, however, was short-lived, and its powers and duties were soon transferred to a board of three county commissioners who were at first nominated by the governor, but in 1825, "the office of commissioner, as well as those of coroner and treasurer, was made elective." The county court survived until 1833, when it was abolished, to be revived, however, with elective judges, in 1846. In 1827, the final important change was made in county organization. In that year, representative township-county administration, on the New York plan, was introduced, and a new body, composed of the elective township supervisors, was substituted for the board of commissioners.

(e) **County Board.** — Two general types of county organization exist in the West: One, is the commissioner system by which the superior authority is centralized, usually in the hands of three men; the other, the supervisor system, by which these powers are vested in a more or less numerous assembly of township representatives. This latter system prevails in New York, Michigan, Wisconsin, Illinois, and Nebraska. Many of the states of the Union, however, have made provision whereby, under certain limitations, both systems run parallel. In several of the states just named, when

the population of a county exceeds a certain amount, provision is made for choosing three or five commissioners. Pennsylvania is the best representative of the commissioner system, from which state it has extended to the West. It will be interesting and profitable for the student to compare these systems of local government, and learn which is the more democratic.

(f) **General Functions of the County Board.** — The county board wherever found, whether made up of commissioners or supervisors, has very important functions. Generally speaking, they can be grouped under the three heads, of roads and bridges, support of the poor, and administration of finance and taxation. In Nebraska, it can create road districts, and establish, alter, and vacate roads. In Kansas, there is a county auditor, in counties having over 25,000 inhabitants, to whom the clerk is required to certify all claims. These are then reported back to the clerk with the auditor's approval or disapproval; but the commissioners still have authority to disallow the claim. In Indiana, the board is composed of the commissioners and four freeholders nominated by the judge of the district court.

(g) **Officers of the County.** — The county officials, east or west, are practically the same, and they discharge relatively similar functions. The student will compare those of his own state with those which are herein described, and can thus localize them. The county officers are as follows: clerk, auditor, register, treasurer, assessor, sheriff, coroner, surveyor, superintendent, prosecuting attorney, public administrator, and county judge.

Summary. — We have now traced in a general way the genesis of local government in a number of typical states, and have shown how the people have at length evolved a system

that embodies democratic principles. Self-government in local affairs is our national ideal. Its attainment has been a slow process, but it is gratifying to know that on American soil this great principle has been first realized. We believe that the ultimate source of all authority is in the people, and that, so long as this fact is recognized, liberty will abide with us. Whenever the principle of local self-government is usurped by the central government, the citizen loses his freedom of action, and becomes again a "creature" of his government, and tyranny is inevitable. The development of our national life, which is our next subject, further illustrates the principle that "authority should flow from the popular will" and not from "a divinely appointed king."

QUESTIONS

1. By what means is local government administered? What is a corporation?
2. How are townships and counties created?
3. What are some of the most important functions of local government?
4. Repeat the three types of local government.
5. In what way were these three types introduced in the western states?
6. Describe the origin of the western township.
7. Describe the government method of laying out a township.
8. What was the homestead act?
9. What is the price of land to a homesteader?
10. What are school lands?
11. When does the necessity arise for making townships civil corporations?
12. How are new townships formed in the older states? How, in Pennsylvania?
13. When did the towns cease to be the only local political corporations in Massachusetts?
14. What is the primary assembly of the New England town?
15. When is the Massachusetts town meeting held, and what are some of its duties?

16. Name the officers of a Massachusetts town, and tell some of their duties.
17. Rhode Island town officers?
18. Connecticut town officers?
19. What is the characteristic difference between the functions of the New England town and those of the Middle Atlantic states?
20. How is this function exercised where there is no town meeting?
21. Name the officers of a New York town.
22. What is the Pennsylvania method of local legislation?
23. Name the officers of a Pennsylvania township.
24. Describe local government in Delaware.
25. What system prevails in New Jersey?
26. What local area in Virginia stands next below the county?
27. What are the officers of one of these districts?
28. Who constitute the county board in Virginia?
29. What is the relation of the school district to the magisterial district?
30. What is the local organization in West Virginia? North Carolina? Maryland?
31. What does Bryce say relative to township government in the Middle and Western states?
32. What states represent the mixed township-county system?
33. What states the township type?
34. Does the township or county exist alone in any of these states?
35. What are the township officers in Ohio?
36. Name the township officers in Illinois, describe their election, and name other functions of the town meeting.
37. What system prevails in Michigan?
38. What is said of the Michigan town meeting?
39. Of what officers is the township board of Michigan composed, and what are its functions?
40. What are some of the special duties of the supervisor?
41. Name all the officers of a Michigan township and compare them with those of Illinois.
42. Describe the educational system of Michigan.
43. Name the officers of a Wisconsin township.
44. Describe the constitution of the township board in New York, Illinois, Michigan, Nebraska, Pennsylvania, Iowa, Ohio, Minnesota, Wisconsin, and Dakota, respectively?
45. Describe in general terms the school district as found in different states.

46. In what states does the township sub-district for schools exist?
47. In what way are the township schools of Pennsylvania managed?
48. In New Jersey, what are the functions of the school trustees?
49. What is the relation in Michigan and Illinois of the town and district boards?
50. Describe the New York system of school management.
51. What system prevails in Kansas, Colorado, and other Western states?
52. What is the tendency concerning school affairs in the Southern states?
53. What are boroughs, and in what states is the name used?
54. What is the law in Pennsylvania regarding the incorporation of boroughs?
55. When and how are boroughs incorporated in Connecticut?
56. Describe village government in Michigan.
57. What are some of the reasons for incorporating boroughs and villages?
58. What are some of the powers conferred by incorporation upon a town or city?
59. What other corporations are there besides the municipal?
60. What is a city?
61. How are cities incorporated?
62. What is said of the government of cities in the United States?
63. By the census of 1890, what proportion of people live in cities exceeding 8000 inhabitants?
64. What are some of the functions of city governments as stated by Bryce?
65. What kind of property is subject to taxation?
66. Name the departments of government in a city, and the administrative officers.
67. Where do we find the purest form of county government?
68. What are the offices of a Southern county?
69. What are the functions of a Southern county?
70. What is said of county government in New England?
71. What is the great organ of local government in New England?
72. Generally speaking, what are the functions of the New England county?
73. What is the function of the county in Rhode Island?
74. In Vermont? The officers of a county?
75. Describe the Connecticut county, and name the officers.
76. How are the fiscal affairs of a Connecticut county managed?

77. What are the officers of a county in New Hampshire? What is meant by the "county convention"?
78. What is said of the county in Maine?
79. What is said of the importance of the county in Massachusetts?
80. Does the Massachusetts county have any legislative functions?
81. How are the commissioners of a Massachusetts county chosen; what are their duties? Name other county officials.
82. What system of local government prevails in New York, New Jersey, and Pennsylvania?
83. What is the relation of the county and township in these states with reference to local affairs?
84. How does Bryce divide the states of the Union with reference to the three types of local government?
85. What conditions of local government must exist before it can be properly classed as a mixed system?
86. Why does the method of taxation in Pennsylvania illustrate this system?
87. Which local unit came first in Pennsylvania?
88. When did the "mixing" of type begin in Pennsylvania?
89. How are new counties in Pennsylvania formed? What is the unit of representation?
90. Describe fully the method of laying and collecting the county tax.
91. How is the county superintendent of schools elected, and how does the method of election illustrate the township-county system?
92. Give other illustrations of this type.
93. Name the officers of a Pennsylvania county.
94. Compare them with those of your own state.
95. How is the board of supervisors constituted, and what are its duties?
96. Describe the origin of the Western county.
97. Which is the oldest county west of Pennsylvania; when and how was it created?
98. What grade of county courts was created in the early counties of the Northwest Territory? When?
99. What powers were given to the governor of the Northwest Territory, with reference to county affairs, by the ordinance of 1787?
100. What county officers were provided for?
101. Describe the early judicial system.
102. To whom was entrusted the civil affairs of the early county?
103. Name some of the powers of the early sessions court.

104. Describe the various steps in the development of the commissioner system.
105. What important element of popular government was lacking in these early forms of local government?
106. What plan was adopted in Ohio after that territory became a state?
107. Describe local government in Michigan under the French. Under the English.
108. What kind of courts were first established by the United States? When?
109. Describe the development of county organization in Michigan while a territory.
110. What important change was made in the government of the county in 1827?
111. What two general types of county government exist in the West? Describe them.
112. In what states does the supervisor system prevail?
113. What state in the East best illustrates the commissioner system?
114. What are the general functions of the county board wherever found?
115. What counties in Kansas have a county auditor? Do his acts bind the county commissioners?
116. How is the county board composed in Indiana?
117. What are the ordinary county officers?
118. Does the American method of local self-government have any particular significance? Why should it be fostered?
119. What is your opinion as to the tendency of the principle of local government in the United States? Why?

PART IV

THE GOVERNMENT OF THE UNITED STATES

CHAPTER VII

THE DEVELOPMENT OF THE NATIONAL GOVERNMENT; AND OF THE NATION

SECTION I. — THE EVOLUTION OF THE NATIONAL GOVERNMENT

Colonial Environment. — All students of history have noticed the influence of environment in the genesis of a nation. Indeed it may be considered the most important factor. Racial heredity is another potent element in the problem. The geographical conditions bring out the characteristic traits of a race, and the manner in which they are met is the index by which we measure its capabilities. The centuries of struggle in England made the Anglo-Saxon a self-reliant, political philosopher. The thirteen English colonies lying along the Atlantic seaboard, thinly settled, isolated, heterogeneous especially in the Middle colonies, encircled by savages for the most part hostile, widely scattered, and with their French rivals on the north and west, were subject to conditions unparalleled among civilized men. The difficulties of intercourse, the mutual jealousies, the frequent disputes about territories and boundaries, all had a tendency to keep the colonies separate. It will thus appear at first glance that the environment had a strong tendency to thoroughly isolate them. On the other hand there were other and inherent causes acting as motives to draw them together. Co-

lonial union was not accomplished by any one act, or succession of acts, but developed under the pressure of circumstances and from a sentiment in the minds of the people.

First Steps toward Union. — It was a common occurrence for commissioners from several of the colonies to meet with the various Indian tribes to settle differences concerning boundaries and other questions. This was the germ from which developed the idea that the colonists had some interests in common. In 1690 the General Court of Massachusetts invited the other New England colonies and New York to unite in a meeting of colonial commissioners to consult and determine ways and means for the common safety, which was then endangered by the breaking out of what is known as King William's War. As early as 1643 a league of the New England colonies had been formed for mutual advice and aid in consequence of what they had suffered in the Pequot War, which had just then closed. About the time of King William's War, William Penn had laid before the Board of Trade "a plan providing for a high commissioner, appointed by the king, to preside over a council composed of two delegates from each province and to act as commander-in-chief in time of war."¹ This plan aroused much opposition, but it was still used, with various adaptations, as the basis for the different schemes looking toward the same end that were proposed during the next sixty years. All of the plans for union that were proposed met with decided opposition, showing that even in those early days there was division among the people. Still, however, they were not divided so much on the question of union as they were on the character of that union. The government party which favored the Congress of 1690, and Penn's plan of 1697 had a different motive for fostering the sentiment than the rank and file of the colonists themselves. The Board of Trade in England, which was

¹ Thwaite's *The Colonies*, p. 270.

practically the government, were already fearful that some day the colonies might want to be independent, and the question that was then distracting their minds was whether the colonies could be more firmly held subject to the home government if kept separate or if under a vice-regal union. They, therefore, always approached the subject as a means to that end, while the other party, the bona fide colonists, as a means of securing their safety against a hostile environment. It will thus be seen that from the point of view of either party there was no national sentiment back of it. Neither party, therefore, were real nation makers, even though their respective efforts might culminate in a national government. A nation must be homogeneous, a government need not be. To continue the thought it may be truthfully said that our nation was not born until interstate transit by means of canals, railroads, lake and river steamboats, schools, churches, commerce, and disturbed foreign relations welded and assimilated us together. Then our national life truly began.

The Albany Convention.—In 1754, the Lords of Trade recommended a second General Congress of the colonies to treat with the Iroquois; they also favored “articles of union and confederation with each other for the mutual defense of his Majesty’s subjects and interests in North America, as well in time of peace as war.” This congress was held at Albany and consisted of delegates from seven of the colonies: New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, and Maryland. This convention adopted a plan of confederation prepared by Franklin. It provided for a “grand council” made up of members chosen by the colonial legislatures. This body was to meet annually and was to have power to deal in all matters with the Indians, to provide for the common defense and to levy taxes within the colonies to meet the necessary expenses. All laws passed by this council

were to be submitted to the king, to whom was given the right to disapprove within three years. There was to be a president-general, appointed and supported by the crown, to whom was given the power to nominate military officers, and to execute the laws of the grand council. This plan was rejected by the colonial legislatures. In the words of Franklin himself: "The crown disapproved it as having too much weight in the democratic part of the constitution, and every assembly as having allowed too much to prerogative." It was evidently not the intention of Providence that ours should be a union of subject provinces, but of independent states. "The defeat of the Albany plan marks the end of efforts at union on the part of the official class."

Quarrels with the Royal Governors. — From 1700 to 1750, during the same time that the government party was fostering the various plans for a union that would bind more firmly the colonies to the crown, the various colonial legislatures were constantly quarrelling with their respective royal governors. The governor, acting under orders from the crown, insisted on being paid a regular salary at stated intervals, but the assembly, desiring to keep him dependent on them, persistently refused and voted him instead such sums as they chose and at any time they deemed proper. If they had voted a fixed salary at definite times, it would have been in the nature of a tax imposed by the crown, and this would have been contrary to the principles of popular government. This contention became very acrimonious, especially in Boston. As early as 1728 the Massachusetts assembly said it was "the undoubted right of all Englishmen, by Magna Charta, to raise and dispose of money for the public service of their own free accord, without compulsion." In some of the colonies this salary question resulted in frequent deadlocks in which all public business was at a standstill. Other differences between the governors and

their assemblies turned on claims of prerogative concerning fees for issuing land-titles, issues of paper money, official attempts to favor the church of England, and the levies of money and men for the public defense. Troubles on these questions were particularly common in Virginia and the Carolinas. In Pennsylvania, owing to the quaker opposition to all warlike measures, the proprietary governors refused, until forced to do so in 1759, to permit their private lands to be taxed for the conduct of military operations. The quarrel was heated and prolonged. In New York the bone of contention was the governor's petty persecution of dissenters from the church of England.

Sir William Phipps was governor of Massachusetts from 1692 to 1695, when it extended from Rhode Island to New Brunswick, with the exception of New Hampshire. His brief term was filled with bitterness and disappointment, because the assembly enacted that taxes could only be levied in the province with the assent of the assembly. This idea of popular government was too ultra for both the governor and the crown. "Its rejection by the home government left the door open to a train of events which ended, eighty-four years later, in continental independence." Connecticut and Rhode Island retaining their old charters, which gave them elective governors, were spared many of these quarrels over salaries, prerogatives, and fees which were burning questions in the other colonies just named. The effect of all these troubles was to create a strong party in many of the colonies that favored the principles of democracy. It might be more correct to say that they simply revived an active interest in the old dogmas regarding liberty and popular government that had been crystallized in the Great Charter (1215), the Petition of Right (1628), the Habeas Corpus Act (1679), and the Bill of Rights (1689). A wise home government would never have aroused these latent principles.

The Colonial Congress of 1765. — An overruling Providence was now rapidly shaping events, and using the obstinacy of an arbitrary king and the arrogance of a small set of bureaucrats to bring about a beneficent solution of the troubles of the times. With the accession of George III. (1760) and the return to power of the ultra wing of the tory party such an autocratic atmosphere surrounded the English government that only coercive measures were thought of in connection with the fermenting colonies. We shall only refer to the more prominent acts on each side. In October, 1765, the first general colonial congress that owed its origin to the popular party in the colonies was held in New York. Twenty-eight delegates from nine of the colonies were present. Virginia, New Hampshire, Georgia, and North Carolina, though sympathizing with the movement, did not send delegates. The Massachusetts legislature proposed this general convention, which was expected to state the colonial grievances in consequence of restrictions on trade, the illegal writs of assistance, and the infamous Stamp Act. For the first time the whole country had a common cause of grievance, and there was need that the people consult together.

The congress adopted a declaration of rights, asserting that they were the same as the people of England, and that it was the right of Englishmen to be taxed only by their own consent. They further asserted that England had her parliament and the people in the different colonies had their assemblies, and that these assemblies had the sole power to lay taxes in America. The congress also demanded the repeal of the Stamp Act, framed addresses to the king and the house of lords, and a petition to the house of commons. All of these acts were afterwards ratified by the colonial assemblies. In all of this, however, there was no idea of a permanent union or of independence.

For nine years the people waited in vain for a redress of

grievances, but they felt instead new evidences of tyranny. During the same time committees of correspondence kept the people of the different sections acquainted with each other's views and plans; and every repressive measure of the government served to draw them closer together. The repeal of the Stamp Act was a slight palliation, but the retention of the tax on tea, the quartering of troops among the people, and the passage of the Boston Port Bill, in 1774, made another general congress necessary.

The Continental Congress of 1774. — Massachusetts again issued the call, and, in response to it, another Continental Congress convened on the 5th of September, 1774. It met in Philadelphia with fifty-five delegates from twelve colonies. Georgia did not send delegates at first, but promised to concur with the other colonies. This congress marks the beginning of the end, for the congress of 1775 was virtually a continuation of this one, because the latter was foreshadowed by it. The mildest part of the work of this first Philadelphia congress was embodied in a declaration of rights and grievances, an address to the king, one to the people of Great Britain, and another to the people of the northern provinces. But the most important acts were a resolution that the colonists after September 10, 1775, refuse to export any merchandise or other commodity to Great Britain, Ireland, and the West Indies, and the formation of an association by the delegates, for themselves and the colonies they represented, to take effect December 1, 1774, not to import into British America from Great Britain or Ireland any goods, wares, or merchandise whatever, or from any other place of any such goods, wares, or merchandise as has been exported from Great Britain or Ireland. This has been called "the first enactment of a general law by America," and "the commencement of the American Union."

This agreement of non-importation, non-exportation, and of

non-consumption as well was resorted to, not as a measure leading to independence, but as the most speedy, effectual, and peaceable measure to obtain a redress of the grievances of which the colonies complained. It must be clearly understood that independence as yet was only vaguely hinted at by a few of the more daring and ambitious as a last resort. The union so far was only tentative, was not entered into to form a national life or to bring about independence. The last recommendation, however, of the congress was most significant, because it unwittingly perpetuated the feeble germ of a permanent union, which the events soon to follow caused to germinate and grow into a living organism. Before they adjourned they recommended that another congress of all the colonies should be held at Philadelphia, on the 10th of the following May, unless their grievances were redressed before that time, and that the deputies to that new congress should be chosen immediately.¹

SECTION 2. — THE REVOLUTIONARY GOVERNMENT; UNION ACCOMPLISHED

The events of the winter of 1774-1775 simply fostered and continued the distractions of former years, and the climax was inevitable. The active opposition of the colonies also continued, preparations for the next congress were made, and, in short, the union became an accomplished fact. Before it met, the battle of Lexington had been fought, and Boston, the hot-bed of opposition to the Crown, was in a state of siege.

The Congress of 1775-1781. — The second Congress met at Philadelphia on the 10th of May, 1775, just as the former one had threatened in the previous October to do, and a Revolutionary Government took the helm of our national bark.

¹ *Journals I.*, p. 56.

"The delegates to this Congress were chosen partly by the popular branch of such of the colonial legislatures as were in session at the time, the choice being afterwards ratified by conventions of the people; but they were principally appointed by conventions of the people held in the various colonies."¹ The credentials of the delegates, while they conferred authority to adopt measures to recover and establish American rights, still expressed, in many instances, a desire for the restoration of harmony between Great Britain and her colonies. Each colony was given one vote through its delegates actually present. Georgia and Rhode Island were not represented at the opening of the Congress, although one delegate from Georgia was admitted to a seat three days later. On the 15th of May the Rhode Island delegation appeared and took their seats. Congress continued in session until the 1st of August, then took a recess until the 5th of September. The full Georgia delegation took their seats on the 13th of September. The delegates from Massachusetts and South Carolina were only chosen for a year, but most of them were not limited with respect to time. Some of the other colonies renewed their delegations from time to time, and this practice was pursued both before and after the Declaration of Independence, thus rendering the Congress a permanent body. In choosing delegates to a National Congress, which eventually declared the colonies an independent nation, and then afterwards obeying the resolves of that Congress, directing them to sever their allegiance to the Crown of England and form state governments, the colonies voluntarily transferred the former conceded sovereign rights of the Crown to their own National Government. A quasi national government was now in existence, and the next step was to take formal action and announce to the world its existence and the reasons for the same.

¹ Curtis' *Constitutional History of the United States*, p. 18.

Declaration of Independence. — “Notwithstanding the absence of any express authority in their instructions to enter upon revolutionary measures, the circumstances under which the Congress assembled placed it in the position and cast upon it the powers of a revolutionary Government. Civil war had actually commenced and blood had been shed.”¹ Congress became at once the organ of the common resistance of the colonies against the parent state. Massachusetts immediately acknowledged the new relation by asking through its Provincial Congress for direction and assistance, and informed the Continental Congress that it had raised a force of thirteen thousand six hundred soldiers and had asked the other New England colonies to furnish men in the same proportion. New York also applied for advice with regard to the British troops expected in that colony. In this manner the Continental Congress was placed at the head of affairs and it proceeded at once to put the country into a state of defense, and for that purpose it assumed control over the military operations of all the colonies. Congress adopted the New England army, ordered six companies to be raised in Pennsylvania, two in Maryland, two in Virginia, and directed them to join the army at Boston, and assumed to pay them. On June 15th, 1775, it unanimously elected Colonel George Washington, a Virginia delegate in the Congress, commander-in-chief of the continental forces. “In the commission given to him as a general the style ‘the United Colonies’ was for the first time adopted.”² It also established a treasury department, organized a general post-office, and appointed a postmaster-general for the United Colonies. On the subject of the militia the acts of Congress were only in the nature of recommendations to the colonies. Congress undertook exclusive jurisdiction in the relations of the country with the Indians, and, in July, it established three

¹ Curtis, p. 20.

² Curtis, p. 21.

departments of Indian Affairs. During the passing of these events, and even up to the spring of 1776, the expectations and wishes of the people of most of the colonies were still looking forward to some solution of the quarrel whereby their old relation to the parent country might be renewed. But the refusal of hearing in parliament of their last petition to the king as emanating from an unlawful assembly that represented colonies in arms against their sovereign; the bombardment, in November, of the town of Falmouth, in Massachusetts, by the king's cruisers; and the passage by parliament of an act prohibiting all trade and commerce with the colonies, and authorizing the capture and condemnation of all American vessels with their cargoes, and forcing the crews of such vessels to enter the king's service — forced the colonies to see the necessity of a complete separation from the mother country and the establishment of independent governments. When this fact was made apparent to Congress, it at once recommended to the several colonies the formation of state constitutions, which recommendations, as we have already explained in our treatment of the formation of the states, were promptly adopted. On the 7th of June, 1776, a resolution was moved by Richard Henry Lee, of Virginia, and seconded by John Adams, of Massachusetts, "That these United Colonies are, and of right ought to be, free and independent States; and that all political connection between them and the State of Great Britain is, and ought to be, totally suppressed." This resolution was referred to a committee of the whole, debated until the 10th, when it was adopted in committee. On the same day a committee of five, consisting of Thomas Jefferson, John Adams, Benjamin Franklin, Roger Sherman, and R. R. Livingston, was instructed to prepare a declaration "that these United Colonies are, and of right ought to be, free and independent States; that they are absolved from all allegiance to the British Crown; and that all political connection between them and the

State of Great Britain is, and ought to be, dissolved." Mr. Lee's resolution of the 7th was postponed until the 1st of July, in order to give time for greater unanimity among the members and "to enable the people of the colonies to instruct and influence their delegates." On the 2d of July the resolution of independence received the affirmative vote in Congress of all the colonies except Pennsylvania and Delaware. The Declaration of Independence was reported to Congress on the 28th of June, and on the 4th of July it received the vote of every colony and was published to the world.

SECTION 3.—THE CONFEDERATION

The Declaration of Independence was not a framework of government; it simply changed entirely the political character of the American colonies. It was now necessary to organize themselves in accordance with their changed conditions. The Congress was a revolutionary government that would fall to pieces just as soon as resistance to the British government became unnecessary. Now they were face to face with the problem of government-making, and the instant they met that question all of their old traditions and experiences as colonists came back to them. Their long-continued quarrels with the crown and their traditions as a race had made them natural democrats. They abhorred the name of king and all that it implied, so that any strongly centralized government that threatened to take from them their accustomed rights of local self-government could not be formed. They felt the necessity of a central government, but they were unwilling to grant it powers that might jeopardize their popular rights. On the 11th of June, 1776, a committee was appointed by Congress to prepare articles of confederation, but it was not until November, 1777, that the articles were finally adopted by Congress and submitted to the states. There was much diversity of opinion

among the states as to the merits of the articles, but the most serious stumbling-block to some of the states was the incidental question relative to the western boundaries of several of the states, more particularly Virginia and New York. These states, already large, claimed the vast area west of Pennsylvania and Lake Erie. If their claims were allowed they threatened to become vast empires which might finally absorb the smaller states. In the light of the present this was a most significant contention. By the refusal of any one state to ratify the new form of government by its own terms it could not go into operation. The great desire of a large majority of the colonies to inaugurate the government under the articles at last impelled Virginia and New York to surrender the territory claimed, to the National Government. This was the beginning of our national territory and is an epoch in our history. The credit for this important achievement is justly due to Maryland. She held out firmly for this result and did not ratify the articles until it was accomplished. It was not until March 1st, 1781, that the new government went into operation. The revolutionary government by an irresponsible Continental Congress without any inherent authority was now at an end, but it had done an heroic work — the war of the Revolution was almost over and the actual end came with the surrender of Cornwallis at Yorktown, on the 19th of October of that same year, although the treaty of peace was not signed until September 3, 1783.

Nature and Powers of the Confederation. — This instrument was called "Articles of Confederation and Perpetual Union between the States." The confederacy was styled "The United States of America." This was the beginning of constitutional government in the United States, even though it was "only a rope of sand." It was declared "a league of friendship" for "common defense," "security of liberties," and

"mutual and general welfare." The idea of popular sovereignty, of local government, had spread from the township to the county, and from the county to the state, and from that to the Continental Congress, so that in the framing of the articles it became the controlling principle and was an insuperable barrier against the formation of a close union. "In their anxiety to be without a master the States left themselves without a government."¹ Each state was to retain its sovereignty, freedom, and independence, and every power, jurisdiction, and right not expressly delegated by the articles to the Congress of the United States. A citizen of one state was to be treated as such by every other state, and intercolonial travel and commerce was guaranteed. Extradition of criminals was also provided for.

Congress was the only department of the general government, there being no executive or judicial departments. Congress was to be composed of not less than two and not more than seven delegates from each state, chosen in such manner as the legislatures thereof should direct. Each state compensated its own delegates and could recall them at any time. Each state had one vote in Congress, determined by a majority of its delegates. To Congress was given sole power respecting peace and war, ambassadors, treaties and alliances, and matters pertaining to the capture and disposal of prizes taken in war. It also had the exclusive right to fix the value of coin and the standard of weights and measures, to manage Indian affairs, establish postal communication, appoint land and naval officers, and make rules for the government of the forces and the direction of operations. Congress also ascertained and appropriated the sums of money necessary to meet the public expenses; was authorized to borrow money or emit bills on the credit of the United States; decided upon the num-

¹ Johnston's *American Politics*, p. 7.

ber of land forces and the quota of each state, this quota being based upon the number of its white inhabitants. The more important of these numerous powers could not be exercised without the consent of nine states.

Executive Functions. — With respect to the executive functions of the Confederacy it was lamentably weak and inefficient. The framers, in their zeal to protect the sovereign rights of the states, withheld from the central government the power of enforcing its laws. This important omission far-sighted statesmen of that day soon had reason to regret. No government can long endure, nor command the respect of its citizens or contemporaries, that is not efficient in this particular. All executive business under the articles was entrusted to committees and officers appointed by the Congress. A committee, consisting of one member from each state, was also appointed to sit during the recess of Congress to execute such of the minor powers of the government as might be delegated to that body. Such powers as were delegated to the congresses could not be exercised by the states.

Financial Affairs. — All taxes for defraying the expenses of the general government were to be levied by the authority of the state legislatures, the time being fixed by Congress. For this purpose there was a common treasury supplied by the states, each paying to it in proportion to the value of the land granted and surveyed within its limits. Every state agreed to comply with the requisitions of Congress, to strictly observe all the articles of the confederation, and to make the union perpetual. The articles could not be altered except by the Congress with the consent of all the state legislatures. "The instrument contains no hint of a possibility of voluntary withdrawal by any State."

Defects of the Confederation. — We have already referred to the weakness of the government under the Confederacy on its executive side, but we will now summarize the more important defects.

1. In its very nature it was defective. It was called "a league of States," and to each of these states was given complete internal sovereignty.

2. The Congress had no coercive power owing to the fact that it had no efficient executive machinery. There was no national judiciary by which it could go within the states to deal with individuals of the states themselves; hence all its enactments, having no penalty attached, were only recommendations. "The elements of Government are law, penalty, judgment, execution." The Confederation had none of these.

3. The Congress could not collect a dollar from the states, hence it had no power within itself to tax the people. Taxation was reserved to the states, and they might and did disregard the levies made upon them by Congress. Confidence in the ability of the borrower to pay is the basis of all credit. Congress could not inspire this confidence because it had no control over its income; Congress had no credit, and a government without money or credit cannot sustain itself any better than a man can in the same circumstances. Its promises to pay are worthless. This explains why the paper money issued by the Continental Congress during the Revolution rapidly depreciated until at the close of the war a bushel of it would not buy a dinner. In consequence of this condition of affairs there was great financial distress. The soldiers were unpaid, army contractors were clamorous for their dues, and, besides, many loyal families that had invested their entire wealth in continental money were suddenly reduced to poverty. The weakness and the lack of credit of the Confederacy simply aggravated these difficulties.

4. Congress had no power to regulate commerce, and this

led to the greatest diversity in the commercial enactments of the several states. As we were, as yet, only a nation in name, state selfishness overshadowed everything and showed itself in the commercial policy of each state. Mutual jealousies and bitterness grew out of this conduct. The free navigation of the Mississippi was a burning question in the west, but Congress could make no satisfactory treaty with Spain because the vote of only seven states could be secured to authorize the secretary of foreign affairs to adjust the matter with the Spanish minister. The articles expressly declared that the United States could not enter into any treaty or alliance unless nine states in Congress assented to the same. The government was therefore at a standstill in regulating both foreign affairs and internal commerce.

In consequence of these and other difficulties all parties came to see that the Confederation was a failure and that some change would have to be made or the new government would fall to pieces by its own weight and conditions would be worse than they were before the Revolution. It will now be our privilege and pleasure to trace the origin and objects of our present admirable Constitution, which is the best existing exponent of a properly centralized democracy.

QUESTIONS

1. Name two important factors to be considered in the genesis of every nation.
2. What is a good index for measuring the capabilities of a race?
3. What were some of the conditions surrounding the English colonies?
4. What ones tended to draw them together? What ones, to separate them?
5. From what germ did the idea of common interests arise?
6. What was the origin of the New York conference of 1690?
7. Describe the New England league of 1643.
8. Describe William Penn's plan of union. When?

9. What became of it?
10. What question divided the people?
11. What motive had the government party in fostering a union?
12. What motive for union did the colonists have?
13. Was there any national sentiment back of any of these movements?
14. What element is necessary before a people are really a nation?
15. When did our national life really begin, and why?
16. What was the origin of the Albany Convention? When?
17. What were the objects of this convention?
18. What colonies were represented in it?
19. What did it accomplish?
20. Describe Franklin's plan of union.
21. Was it agreeable to the colonies?
22. What did Franklin himself say of its failure to be adopted?
23. Did the official party make any other attempt to form a union?
24. What questions were constantly causing quarrels between the royal governors and the colonial legislatures?
25. What did the Massachusetts legislature say in 1728 with reference to the raising and disposal of money?
26. What questions arose in Virginia and the Carolinas?
27. What was the trouble in Pennsylvania?
28. What question embittered Governor Phipps' term in Massachusetts?
29. Why would it have been wise for the home government to have conceded this point?
30. What was the general effect of all of these various quarrels?
31. When did George III. become king of England, and what political party came into power?
32. What plan was adopted by the king and his advisers with respect to the colonies?
33. How did the Congress of 1765 originate, and why?
34. When and where did it meet, and what colonies were represented?
35. What were some of the declarations of this Congress?
36. How did the colonial legislatures receive the acts of this Congress?
37. Were the people yet ready for a permanent union or independence?
38. Did the tyranny of the crown cease?
39. What method did the colonies adopt to bring about concerted action?
40. What new grievances brought about the Congress of 1774?
41. Which colony issued the call for this Congress?

42. When and where did it convene?
43. How many delegates were present, and from what colonies?
44. What declarations and addresses were framed by the Congress?
45. What important resolutions were passed concerning the importation and exportation of merchandise?
46. What name has been given to this enactment?
47. What object had they in passing it?
48. What was the last recommendation of the Congress, and why significant?
49. The events of the winter of 1774-1775 had what effect?
50. When and where did the second Congress meet?
51. What eventually became the great function of this Congress?
52. How were the delegates chosen?
53. What was the general purport of their credentials?
54. When did Georgia and Rhode Island send delegates to it?
55. For what term were the delegates mostly chosen?
56. What acts of the colonies indicated that they had transferred their allegiance from the crown to the new National Government?
57. In what sense did the Congress become the organ of the colonies?
58. In what way did Massachusetts and New York acknowledge the new relation?
59. What policy did Congress assume?
60. When was Washington chosen commander-in-chief, and why is his commission significant?
61. What departments of government did Congress immediately organize?
62. What other measures did it adopt?
63. Notwithstanding all these preparations for resistance, what was the expectation of the general mass of the people?
64. What circumstances finally forced the colonies to see the necessity of a complete separation from England?
65. When Congress at last recognized this fact, what recommendations did it make?
66. Outline briefly Richard Henry Lee's resolution of June 7, 1776.
67. When was the committee chosen to draft a declaration? Who constituted this committee?
68. What was this declaration to embody?
69. When was Lee's resolution adopted, and by what colonies?
70. When was the Declaration of Independence reported from committee, and when was it finally passed?
71. What colonies voted for it?

72. What was the effect of the Declaration of Independence?
73. At this stage, what was the character of the new government?
74. Why was it now necessary to organize some form of government?
75. What was the political status of the colonies with reference to a form of government?
76. When were the Articles of Confederation finally adopted by Congress?
77. Why did the states delay in ratifying them?
78. Which was the last state to ratify?
79. When did the new government go into operation?
80. What official name was given to the new instrument of government?
81. How was the Confederacy styled?
82. What phrases define its nature?
83. What was the controlling principle in framing it?
84. What was the effect of this principle?
85. By its terms, what powers were reserved to the states?
86. What departments did it give to the general government?
87. Describe the composition of Congress, and state how the delegates were chosen.
88. How were the delegates compensated for their services?
89. How did they vote?
90. Name some of the exclusive powers given to Congress.
91. What can you say of the executive functions of the government?
92. To whom was the executive business entrusted?
93. Who constituted the government during the recess of Congress?
94. How were the expenses of the general government to be met?
95. In what way could the Articles be altered?
96. Does it anywhere imply that a state could voluntarily withdraw from the union?
97. What were its most serious defects?
98. The inability of Congress to regulate commerce had what serious consequences?
99. How did the states treat one another with reference to internal commerce?
100. What was the final condition of the government under the Articles of Confederation?

CHAPTER VIII

THE CONSTITUTION

SECTION I. — ITS ORIGIN

Webster characterized the Articles of Confederation “a rope of sand,” and such they were. Any human society would naturally tend to anarchy, if bound together by no stronger ties than the Confederacy. As soon as the pressure of war was removed, the symptoms of disintegration became more apparent. Congress had become a mere Rump, and was compelled to appeal repeatedly to the states before it could even obtain a quorum to ratify the treaty of peace. The finances were in the woful condition described in the last chapter. Eighteen months were required to collect only one-fifth of the taxes assigned to the states in 1783. Foreign nations, knowing the impotence of Congress, refused to make commercial treaties with the United States. The national standing army had dwindled to a corps of eighty men. In 1785, Algiers declared war against the United States, and Congress recommended the building of five 40-gun ships of war. The ships were not built, because Congress could only recommend, and the Algerines were permitted to prey on American commerce with impunity. England would not recognize us by sending a minister to the United States, nor carry out the treaty of 1783. “The Federal Government, in short, was despised abroad, and disobeyed at home.”

Attempts to Strengthen the Articles. — The only apparent remedy seemed to be to give Congress the power of levying and collecting internal taxes and duties on imports, but it was

found impossible, even after long urging, to gain the necessary consent of all the states to the article of taxation by Congress. In 1786, therefore, this was abandoned, and, as a last resort, the states were asked to pass an amendment entrusting to Congress the collection of a revenue from imports. All of the states, except New York, agreed to this, and her veto seemed to destroy the last hope of a continuance of the national union. New York, ever since the peace, had been divided between two parties — “the friends of adequate powers in Congress, and the adherents of State sovereignty; and the belief that the commercial advantage of the States depended upon retaining the power to collect their own revenues had all along given the latter an ascendancy in the legislature.”¹ Hamilton used his utmost influence to bring New York into line with the other colonies, but, failing in this, he earnestly urged that the state send commissioners to a commercial convention proposed by Virginia and Maryland to meet at Annapolis. In this he succeeded, owing doubtless to the fact that he had failed in the other attempt.

The Annapolis Convention. — The commercial troubles already recited, led the legislatures of Virginia and Maryland, in behalf of their respective citizens directly interested in the navigation of the rivers Potomac and Pocomoke and of the Chesapeake Bay, to appoint, in 1785, commissioners to make a compact relative to the navigation of the waters named. These commissioners met at Alexandria in March, and while there made a visit to Mount Vernon. They finally adopted a harmonious commercial plan for the two states, and they so reported to their respective states. In Virginia, when the report was received, the legislature had under consideration the general proposition for granting temporary powers to Congress. It immediately directed by a resolution that the part of the

¹ Curtis, p. 231.

Alexandrian plan for commercial privileges that pertained to duties on imports, be communicated to all the states, with an invitation to send deputies to a convention to be held at Annapolis in September, 1786. Delegates from five of the States, New York, New Jersey, Pennsylvania, Delaware, and Virginia, met at the time and place named. As less than a majority of the states were represented, the delegates confined themselves to discussion. The general conclusion was that the government as it then stood was inadequate, and that some immediate and thorough reform was needed. They proposed another convention in which all of the states should be represented, to "take into consideration the situation of the United States" and "devise such further provisions as should appear to them necessary to render the constitution of the Federal Government adequate to the exigencies of the Union." They further recommended that the proposed convention meet at Philadelphia in May, 1787. Congress, by resolution, approved their report and recommended the convention for the purpose of revising the Articles of Confederation.

The Constitutional Convention of 1787.—The convention met May 25, 1787, being composed of delegates from all the states, with the exception of Rhode Island. George Washington was chosen president of the convention. Its proceedings were secret, but an account of them was afterwards drawn up, from Mr. Madison's notes. This was the most memorable of our national conventions, when its great work is considered, and among its members were some of the world's greatest statesmen. Washington, Madison, Hamilton, Franklin, Gouverneur Morris, Charles Cotesworth Pinckney, James Wilson, and Randolph, were enough to make any body of men distinguished. It was soon found impossible to secure the desired end by using the Articles of Confederation as a basis, and the convention decided to transcend the

instructions given to the delegates, and form an entirely new constitution, on the ground that the work must finally be submitted to, and approved by, the people before it could go into effect.

On the 29th of May, Randolph of Virginia proposed the so-called "Virginia plan" for the new government. The most important points were: (1) that representation in the new Congress should be proportional to population, and (2) that Congress should have power to compel the states to fulfill their obligations. His plan also involved a proposition "that a National Government ought to be established, consisting of a supreme legislative, executive, and judiciary." This was the first distinct departure that was made from the principles of the Confederation. The smaller states were opposed to these provisions and favored instead "the New Jersey plan," proposed by Patterson of New Jersey, which continued the old Confederation, but gave Congress the power to regulate commerce, and to raise a revenue. This plan would have made the smaller and larger states equal in power. On the 19th of June, the New Jersey plan was rejected by the convention and that of Virginia was substituted for consideration. After much discussion a compromise was made by dividing the Congress into two houses, and giving the smaller states equal representation in the upper house, and with a representation in the lower house based upon population. The constitution was only secured by compromising on important questions; the one just mentioned being an illustration in point. The question of omitting or including slaves in reckoning population as a basis for representation in the lower house of Congress, was another. It was finally agreed to estimate them as equal to three-fifths of the same number of whites. It was also agreed not to prohibit the slave trade until 1808. Slavery was already practically dead or soon to become so, in Massachusetts, Connecticut, Rhode Island, New York, and Pennsylvania. Other

great questions, with those just named, that threatened from time to time to break up the convention, were adjusted in the same wise and judicial manner.

On the 17th of September, the final draft of the constitution was adopted by the convention. It was then submitted to Congress, which transmitted it to the several legislatures of the several states, with a recommendation that it be laid before a convention of delegates chosen for the purpose of ratification, by the people in each state.

Ratification by the States. — The ratification of the Constitution was only secured by the most heroic efforts of its friends. There was hardly a feature of it that escaped criticism. The time it was passing through this ordeal was one of the most critical periods in our history, and we can well imagine the anxiety of the friends of the constitution and of the government.

The discussions that then arose divided the country into two great parties, — the Federalists who advocated, and the Anti-Federalists, who opposed its ratification. Of the men who did the most to secure its ratification, the most influential were James Madison and Alexander Hamilton. Together they wrote and published, in a New York newspaper, a series of articles favoring the constitution, which now constitute one work called *The Federalist*. There are eighty-five papers in this great work, of which it is believed Hamilton wrote about sixty, Jay five or six, and Madison the remainder. They are admirable state papers and ably refute the various objections to the constitution.

The debates in the different states clearly illustrate the fact that as yet we were not a nation. In New York, Massachusetts, Western Pennsylvania, and Virginia, the sentiment was strong for state isolation, and a disposition to sacrifice our national life on the altar of state sovereignty. In Virginia,

New York, and Massachusetts the question of ratification was in doubt up until the moment the vote was taken. The opponents of the constitution adopted in each of these states all sorts of tactics to defeat it.

Dilatory motions, inflammatory appeals to the passions of the uneducated, and personalities were used as best suited its enemies. In Virginia, the great leader of the opposition was Patrick Henry, in Massachusetts, Samuel Adams, both patriotic and popular leaders at the beginning of the war for Independence. Their abilities and popularity made them formidable. Madison, "the father of the constitution," ably and successfully led the Federal, or Constitution, party in Virginia. Massachusetts finally ratified it, but recommended amendments to include a "bill of rights." In New York, when the ratifying convention met, the Anti-Federalists were in the majority, and had it not been for the preëminent ability of Hamilton, they would have defeated it.

By its terms, the new Government could not go into operation until nine states ratified it, so that the contest was greatly prolonged. Five of the states, — Delaware, Pennsylvania, New Jersey, Georgia, and Connecticut, — in the order named, ratified it without objection, although in each state there was considerable feeling and much discussion. The first three of these states ratified before the New Year; Georgia on the 2d of January, 1788, and Connecticut on the 9th. The convention of Massachusetts commenced its session on the 9th of January, but did not ratify until the 6th of February. The Maryland convention assembled on the 21st of April and promptly ratified it on the 28th of the same month. South Carolina was considered by the Federalists a doubtful state, and so it was, but through the efforts of General Pinckney, ratification was accomplished May 23d. It, however, recommended several amendments.

The New Hampshire convention which met in February,

had a majority against the constitution, but its friends, after much persuasion, and an adjournment until the middle of June in order that some instructed delegates might go home and secure a change of sentiment, secured its ratification on the 21st of June. Virginia was a battle-ground, as we have already explained, and while the convention met on the 2d of June, it was not until the 26th of June that it voted ratification. New York was the most doubtful of all the states, but she finally ratified it on the 26th of July. Thus by the end of July, 1788, eleven states had adopted the constitution; five of them proposing amendments for the consideration of the first Congress that would assemble under it, and one of the five calling for a second general convention to act upon the amendments desired. Two other states, however, North Carolina and Rhode Island, still remained aloof. A state convention assembled in North Carolina on July 21, 1788, but with a large Anti-Federalist majority, which would not consent to an unconditional ratification. Their purpose was not to enter the new union until the amendments which they desired had been obtained. They also believed that the Congress of the Confederation would not provide for the organization of the new Government until another general convention had been held; or, if they did, that such a convention would be called by the new Congress. The result was that the convention was dissolved after adopting a resolution declaring that a bill of rights, and certain amendments, ought to be laid before Congress and the convention that might be called for amending the constitution, previous to its ratification by the state of North Carolina. It was not until the 21st of November, 1789, that North Carolina finally ratified the constitution.

The situation in Rhode Island was unique, and the reasons for the delay in ratifying were not complimentary to the intelligence of the people. Its general assembly received the constitution at their session in October, 1787, and directed that

it be published and circulated among the inhabitants of the state. In February, 1788, the assembly referred the adoption of the constitution to the freemen in their several town meetings, where it was almost unanimously rejected. Curtis¹ summarizes the reasons for the attitude of the state at this time, which are in substance as follows: 1. The existence in the state, of a despotic and well organized "paper money" party, which controlled the legislature by furnishing the agricultural classes with paper money as the only circulating medium; and they were determined to extinguish the state debt by this species of currency, which the legislature could, and did, depreciate at pleasure.

2. A constant antagonism existed between town and country—between the agricultural and the mercantile and trading classes. The paper money question divided the people in the same way. The country party feared they would lose this circulating medium, if the constitution was adopted.

3. The country party had great faith in the maritime advantages of the state, and believed that they could be used as a means for obtaining better terms with the general Government than could be had under the proposed constitution, and that by some such means funds could be obtained for paying their most urgent debts. Better councils, however, began to prevail with the people of the state, and good sense was at length triumphant, so that on the 29th of May, 1790, Rhode Island, the last of the thirteen original states, joined the Union.

SECTION 2. — THE GENERAL IMPORT OF THE CONSTITUTION

Alexander Johnston, in his *American Politics*, in speaking of the nature and objects of the constitution, says, "How far the new Federal Government succeeded to the sovereign rights

¹ *Constitutional History*, pp. 693 et seq.

of the States and formed a centralized Government in their place each must decide for himself by a study of the constitution, and on his decision will depend generally his party membership. All agree that the new Federal Government succeeded to at least a part of the sovereign rights previously vested in the States, that the Federal Government thus obtained what it had previously lacked, the power over individuals, and that in the sphere abandoned to it, the Federal Government is supreme. How far that sphere extends is, and it is to be hoped long will be, a great party question."

The student will remember from the early chapters of this volume, that the history of the English people is filled with the struggle between the despotism of centralized governments and the democratic idea of individual liberty. Man's happiness as a citizen depends upon a proper balancing of these apparently antagonistic principles. No government can exist for any length of time that lacks coercive power; but if, on the other hand, unlimited power is given to a government, it will become despotic and forgetful of the rights of men. The problem, therefore, for government makers, has always been, how to adjust the rights of the individual with the needs of an efficient government. The variety of governments in the world is the best illustration of the complexity of the question. Men will probably never agree as to the form that best exemplifies this ideal adjustment. England has worked out the problem by means of an hereditary executive with limited powers¹ and an elective legislature that has almost regal powers. In Germany, the emperor occupies not an "hereditary throne but an hereditary office."² Sovereignty does not reside in him, but "in the union of German federal princes and the free cities." Still the emperor has many constitutional prerogatives: he cannot be removed; he summons,

¹ The House of Lords has little influence in the government.

² Wilson's *The State*, Revised edition, p. 256.

opens, adjourns, and closes the two houses of the Federal legislature. He appoints, and may at his pleasure remove, the Imperial Chancellor. He appoints all minor officers of the imperial service, controls the foreign affairs of the Empire, and commands its vast military forces. A sovereign legislature can set aside constitutional limitations or alter them without the consent of the states composing the Empire. The Reichstag is the elective branch of the legislature, while the Bundesrath consists of a body of ambassadors who represent the governments of the states from which they come. It represents the federal feature of the government. The government of Germany is therefore more of a veiled monarchy than a popular government.

The Preamble. — The language used in the Preamble to our constitution throws much light upon the nature of the union. "We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and to our posterity, do ordain and establish this constitution for the United States of America." The phrase, "we, the people of the United States of America," has been construed by one party as an assertion that the constitution was adopted by the people of each state for itself, and by the opposite party as announcing the consolidation of discordant states into one powerful nation, not a mere league. Ever since its adoption, its interpretation has been the one over-shadowing political question. Before its adoption, the relative superiority of the State or the Nation was the dividing line. In those early days the persons who were zealous defenders of state sovereignty were the ones that opposed its adoption later, under the name of Anti-Federalists. They feared that its term made the state subordinate to the nation. After its adoption, they naturally

became strict constructionists of its language and earnestly combated any interpretation that seemed to still further enlarge the powers of the National Government. But they now took the name of Democratic-Republicans. The Federalists, on the other hand, became loose constructionists, and they just as naturally endeavored to enlarge the powers of the National Government by interpreting it as broadly as possible. They originated the doctrine of "the implied powers" of Congress, just as their opponents have originated the phrase, "the reserved rights of the States." Many of the most famous debates in our National Congress have raised these constitutional questions. The great debate (1830) between Webster and Hayne hinged on this question.

Hamilton became the great leader of the Federalists, and Jefferson of the Democratic-Republicans. The Whig and Republican parties as the successors, respectively, of the Federal party, represent the loose construction theory, while the Democratic party of to-day is the natural heir of the party of Jefferson.

Madison's Opinion of the Union under the Constitution. — In reply to the question whether the Union was a federal, or league government, as claimed by the strict constructionists, Mr. Madison answered as follows: "The constitution is, in strictness, neither a national nor a federal constitution, but a composition of both. In its foundation it is federal, not national; in the sources from which the ordinary powers of the Government are drawn, it is partly federal and partly national; in the operation of these powers it is national, not federal; in the extent of them, again, it is federal, not national; and finally, in the authoritative mode of introducing amendments, it is neither wholly federal, nor wholly national."

It is thus seen that in the estimation of one of its most illustrious framers, the constitution was a compromise in every

important particular. If the extreme Federalists had succeeded in having their way, it would have been centralized into a monarchy; while the extreme Anti-Federalists would have continued it as a league between thirteen independent republics. On this account, only thirty-nine of the fifty-five delegates to the convention signed it, and it can be truthfully said that it really satisfied no one.

The Federal Judiciary, Its Greatest Innovation. — The most important creation of the constitution was, unquestionably, the Federal Judiciary. The object of this efficient and necessary department of the National Government was to enforce the acts of Congress throughout the states. Under the Articles, this could not be done. It gave power to the executive arm of the government by creating a system of United States Courts empowered to define the boundaries of Federal authority, and to enforce its decisions. In the settlement of disputes concerning the property of citizens of foreign nations, there was no uniformity in the laws of the different states, and the treaties with such states were persistently violated by local legislation. There was an absolute necessity for some such tribunal having national jurisdiction, by which interstate and international justice could be established.

Coördinate Departments. — The creation of three coördinate departments of government, relatively independent of one another, with clearly defined functions, was another important innovation. By means of these it became possible for the new Government to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, and promote the general welfare, as stated in the preamble.

It thus became, as it now is, the best expression of a government for the people, by the people, that the world has yet seen. By it the people are sovereign and can exercise their sovereignty through the elective franchise not only in choos-

ing their legislators as in England and some other foreign states, but in choosing their executive. In this way the principles of popular government and democracy for which our ancestors across the sea so long contended, have become fixed and permanent, and as a result America has become the typical home for the liberty-loving peoples of all lands.

Reserving to the states the administration of local affairs, every individual is still directly interested in the most important questions that can affect his development and personal happiness. On July 14th, 1788, the Congress of the Confederacy referred the ratifications received from nine states to a committee which reported a resolution for carrying the new Government into effect. The time and place of meeting for the new Congress was fixed at New York, March 4th, 1789. The first Wednesday of January, 1789, was appointed for the choice of electors for president and vice-president, and the first Wednesday in February for the voting of electors. On the 4th of March, 1789, the day set for the formal inauguration of the new Government, neither the senate nor house of representatives, constituting the first Congress under the constitution, had a quorum. On April 1st, the house finally secured a quorum, and chose Frederick Augustus Muhlenberg, of Pennsylvania, speaker; and on Monday, April 6th, a quorum was secured by the senate. On the same day (April 6th), the joint meeting of the senate and house, for the purpose of opening and counting the votes of the electors for president and vice-president was held, whereby it appeared that George Washington was elected President, and John Adams, Vice-President of the United States. On Tuesday, April 21st, the Vice-President, John Adams, took the chair as the president of the senate, and on Thursday, April 30th, George Washington took the oath of office as President of the United States, and the new Government under the constitution began its memorable career.

QUESTIONS

1. How did Webster characterize the Articles of Confederation? Was it true?
2. What circumstances illustrate the impotence of congress?
3. What was the condition of the national standing army?
4. What was the situation with reference to Algiers? England?
5. What seemed to be the proper remedy for the weak condition of the government?
6. Why could this not be done?
7. What plan was attempted in 1786?
8. What became of it?
9. What two parties divided New York?
10. What position did Hamilton take?
11. In what particular was he successful?
12. What circumstances brought about the convention at Alexandria?
13. Why was this convention significant?
14. What states were represented in the Annapolis convention? When did it meet?
15. What were some of the results of this convention?
16. For what purpose did they propose another convention?
17. How did congress receive the recommendations of the Annapolis convention?
18. When and where did the Constitutional Convention meet?
19. Who was chosen president?
20. Who were some of its most distinguished members?
21. What were their reasons for forming a new constitution?
22. Outline the "Virginia plan" of government.
23. How was it received by the smaller states?
24. What was the "New Jersey" plan?
25. How were the smaller states conciliated?
26. How was the compromise on the slavery question made?
27. When was the final draft of the constitution adopted?
28. What method did congress recommend to the states for its ratification?
29. How was the constitution generally received by the states?
30. What two great political parties grew out of the discussions concerning it?
31. What was *The Federalist*?
32. In what states was the doctrine of state sovereignty especially strong?

33. Who were the leaders of the opposition in Virginia and Massachusetts respectively?
34. Who secured its adoption in New York?
35. How many states were required to ratify before the new government could be organized?
36. What three states ratified before the New Year?
37. Name the states in the order in which they ratified.
38. In what states were the greatest contests?
39. When did North Carolina ratify, and what was the reason for the delay?
40. When did Rhode Island ratify, and what caused the delay?
41. What is the general character of our government under the constitution as stated by Alexander Johnston?
42. What two antagonistic principles of government have struggled for supremacy in England and elsewhere?
43. Is some degree of centralization essential to the permanency of every government? Why?
44. What is the ideal form of government?
45. How have England and Germany, respectively, worked out the problem of government?
46. What is the language of the preamble to the constitution?
47. What party became the strict constructionists? The loose constructionists?
48. What was Madison's opinion of the character of the union under the constitution?
49. Why is the federal judiciary the greatest innovation in the constitution?
50. What are the three great coördinate departments of our government?
51. Briefly outline the different steps culminating in the formal inauguration of the new government.

CHAPTER IX

THE LEGISLATIVE DEPARTMENT

"All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." Article I, Section I.

SECTION I. — HOUSE OF REPRESENTATIVES

Number of Members. — As the name implies, the members of the lower house were to represent the people, while the senators represented the states. In this way our National government is a true representative democracy, which circumstance doubtless unwittingly illustrates the Germanic origin of its people. It will be remembered that it was the custom, among the early Teutons, for the township to be represented in the assemblies of the hundred and the shire by "the reeve and four best men." The representative idea seems to have never once occurred to the Greek or Roman. Of course, its application in our state governments had made the principle so familiar, that in the evolution of the National government it was accepted as a matter of course.

The constitution provides that the number of representatives shall at no time exceed one for every thirty thousand inhabitants. It also fixed the number of members of the first House at sixty-five, and apportioned them among the thirteen states. It further provided for a census within three years of the first meeting of Congress, "and within every subsequent term of ten years, in such manner as Congress shall by law direct."

Choice of Members. — The representatives are chosen every two years by the people of the several states. The quota, assigned by Congress after each census to each state, is distributed among congressional districts by the respective state legislatures. A member of the House, therefore, represents, in a narrow sense, a district of a state; except congressmen-at-large, who are voted for by the electors of the whole state. Any person in any state, who is entitled by law to vote for members of the larger branch of the state legislature, may vote for a representative in Congress. It thus appears that the qualifications of voters are determined by the states, not by the National government.

Qualifications of a Representative. — The requisite qualifications of a representative are as follows:

1. He must be at least twenty-five years of age.
2. He must have been at least seven years a citizen of the United States.
3. He must be an inhabitant of the state from which elected.

Apportionment. — Representatives are apportioned among the states according to the number of inhabitants, excluding from that number Indians not taxed. When the constitution was framed, the number of inhabitants, on which representation was based, was made up by adding to the whole number of free persons those bound to service for a term of three years, and three-fifths of the slaves; excluding, then, as now, Indians not taxed. When slavery was abolished, amendments were made to meet the changed conditions. The apportionment is always made after each decennial census. The first census was in 1790. Congress fixes the number of representatives that shall constitute a congress for the next decade. The whole number of people in the United States, as found by the census, is then divided by the number of representatives that shall constitute a congress for the decade, and the quotient is the number

of inhabitants entitled to one representative; this quotient is "the ratio of representation." The number of representatives to which each state is entitled, is found by dividing the population of that state by the ratio of representation. As there are now forty-five states, this process of division involves just that many problems, and it will be readily seen that, owing to the many remainders, the aggregate of the forty-five quotients will not quite equal the whole number of representatives fixed by Congress for that decade. To remedy this, one additional congressman is given to each of the states having the largest remainders until the whole number is made up. Such additional representatives are called congressmen-at-large.

The Constitution gives to each state at least one representative. When a new state is admitted between two successive apportionments, it is usually allowed one representative until the next census.

From 1893 to 1903, the ratio of representation is 173,901, and the total number of representatives is 357. After that date the House will be composed of 386 members as a minimum, and the ratio will be 194,182 people. In addition to the representatives from the states, Congress has by law authorized each organized territory to send one person, who is called a delegate. He sits with the representatives, and can take part in the discussions, but has no vote. There are now three territorial delegates in Congress.¹

District of Columbia.—The government of the District of Columbia is vested, by act of Congress, approved July 11, 1878, in three commissioners, two of whom are appointed by the President from citizens of the District having had three years' residence therein immediately preceding that appointment, and

¹ To these should be added the delegate from Hawaii. The delegate from Porto Rico is more directly connected with the National Executive department.

confirmed by the senate. The third commissioner is detailed by the President from the corps of engineers of the United States army, and must have lineal rank senior to captain, or be a captain who has served in the engineer corps for at least fifteen years. This board of commissioners appoints the subordinate officials. Congress makes all laws for the District, but has entrusted to the commissioners authority to make police, building, and other municipal regulations.

Porto Rico; Philippine Islands. — War began between Spain and the United States in April, 1898. The United States took up the cause of the Cubans who were struggling to free themselves from Spanish rule. The war was short and decisive, being a succession of victories for the army and navy of the United States. A treaty of peace was signed between the two countries on the 10th of December, 1898. By its terms, Spain surrendered her title to the Philippine Islands, the Ladrones, and her possessions in the West Indies. Civil government has not yet been established in the Philippine Islands, but their affairs are managed by a commission appointed by the President of the United States. Porto Rico has been organized as a territory of the United States, and has a delegate at Washington. The legislative functions of the island are entrusted to an executive council of eleven (11) appointed by the President, and a house of delegates consisting of thirty-five (35) members elected biennially. The executive officers are appointed by the President of the United States. They include a governor, secretary, attorney-general, treasurer, auditor, commissioner of education, and commissioner of the interior. There is also a federal judicial district presided over by a judge appointed by the President of the United States.

The Hawaiian Islands. — On July 7, 1899, the President of the United States signed the resolution annexing the Hawaiian Republic, which had passed the senate on the day previous.

These islands had organized themselves into a republic, five years before, with a president and a congress. By an act of Congress, approved April 30, 1900, a territorial government was established in Hawaii. The legislature is elective, and consists of two houses. The executive power is lodged in a governor, secretary, both appointed by the President, and an attorney-general, treasurer, commissioner of public lands, commissioner of agriculture and forestry, superintendent of public works, superintendent of public instruction, auditor and deputy, surveyor, and high sheriff,—appointed by the governor, besides certain boards. The judiciary consists of a supreme and circuit court.

Guam.—An island of the Ladrone group, also ceded to the United States by Spain, has a governor appointed by the President of the United States.

Sessions of Congress.—Every Congress has a legal existence of two years, the official year beginning on the fourth of March of each odd year. The term of service is, therefore, two years. During this time Congress holds, regularly, two sessions, commonly called the long and the short, or the first and second sessions. Congress regulates the time of convening. As the law now stands, each session begins on the first Monday of December. The long session being the first session of every new Congress, and as a new Congress is organized every odd year, the student can readily determine whether any particular session is the short or long session. If a vacancy occurs in the representation of any state, it is filled by a new election, ordered by the governor. The President can convene Congress in extra session, if any important emergency arises, and he frequently does; this necessarily occasions three sessions for that particular Congress. The various congresses are designated by number. The fifty-sixth Congress ended on the 4th of March, 1901.

Organization of the House of Representatives. — The house of representatives organizes by electing one of its members as speaker to serve for the two years. Other officers, as the clerk, sergeant-at-arms, and chaplain, are not members. The office of speaker has become one of the most important in our government, and is now, probably, only second in influence to that of the President. Conservative citizens question the wisdom of giving the speaker so much power. He names all the standing committees, of which there is a large number, and as all legislation must first be referred to one or another of these committees, it is possible for him to block legislation by making the reference to a hostile committee, or to one that will do his bidding. These committees, protected by ironclad rules, are almost autocratic with reference to bills in their hands.

Some Special Powers of the House. — 1. The house of representatives has the sole power to present articles of impeachment. If the house believes that an officer of the federal government should be impeached, it appoints a committee called the "managing committee," which presents the articles of impeachment before the senate, which body has the sole power to try impeachments.

2. All bills for raising revenue must originate in the house, though the senate may amend such bills.

SECTION 2. — THE SENATE

"The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof for six years, and each Senator shall have one vote." (Article I, Section 3.)

Number and Choice of Senators. — The senate is composed of two senators from each state, chosen by the legislature of the state. The members of each branch of the state legis-

lature meet on the same day, and vote *viva voce* for a senator. On the next day, the two houses meet in joint convention, and if the same person received a majority in each house the day before, he is declared elected. If no person has received such majorities, then the two houses, sitting as one body, proceed to vote *viva voce*; and if a majority of each house is present, the person who receives a majority of the votes cast is elected. If there is no choice on the first day, they are required to meet in joint session, and take at least one ballot each day until a choice is made or the legislative session ends. This method is prescribed by an act of Congress passed in 1866. Even under this arrangement there are frequent deadlocks.

A senator is elected for six years, and he can be reëlected as often as his state sees fit to return him. One-third of the senators retire every two years.

If a vacancy arises either by resignation or otherwise, and the legislature of the state is not in session, the governor may make a temporary appointment until the next meeting of the legislature, when the vacancy is filled in the usual way. It is a mooted question whether a governor can appoint a senator, if the legislature fails to elect a successor to one whose term has expired. In several instances this has been done, but the senate always refused to recognize the appointee.

Qualifications of a Senator. — 1. He must be at least thirty years of age. 2. He must have been at least nine years a citizen of the United States. 3. When elected he must be an inhabitant of the state.

Organization of the Senate. — The senate assembles and organizes at the same time and in a manner similar to that of the house. The Vice-President of the United States is, however, the presiding officer of the senate; but has no vote except when it is equally divided. In the absence of the Vice-President, the senate chooses a president *pro tempore*.

Special Functions. — Besides its legislative function, the senate has one judicial and two executive functions: —

1. Its judicial function is, to sit as a court for the trial of impeachments.

2. Its two executive functions are, (*a*) to approve or disapprove the President's nomination of federal officers, including judges, ministers of state, and ambassadors; and (*b*) to approve, by a majority of two-thirds of those present, of treaties made by the President. If less than two-thirds approve, the treaty is void.

Compensation. — Senators and representatives are paid \$5000 per annum out of the treasury of the United States. They are also allowed, in addition, \$125 a year for postage, stationery, and newspapers; and mileage, which is an allowance of twenty cents a mile for travelling expenses in going to and returning from a session of Congress.

Privileges of Congressmen. — Members of either house of Congress are, of course, amenable to the laws of the country, but they are privileged from arrest while attending a session of Congress, unless accused of treason, felony, or breach of the peace. A congressman cannot be questioned in another place for any speech or utterance in either house.

Incompatible Offices. — No senator or representative can hold any civil office under the government of the United States, nor can any one holding such civil office become, at the same time, a member of either house. A member of Congress may be a state officer, unless the constitution of the state forbids; but a member of the President's cabinet cannot, while a cabinet officer, become a senator or a representative.

SECTION 3. — SOME GENERAL PROVISIONS RESPECTING CONGRESS

Authority over Members. — Each house is the final judge of the elections, returns, and qualifications of its members. Each house determines the rules of its proceedings, punishes its members for disorderly behavior, and, by a vote of two-thirds, may expel a member. During the early part of the Civil War, several members of the house were expelled for treasonable language and acts.

Quorum. — A majority of each house is a quorum to do business; and, in order to secure this, a smaller number may compel the attendance of absent members. Less than a quorum may adjourn from day to day. Neither house, without the consent of the other, can adjourn for more than three days, nor to any other place.

Journal. — Each house keeps a journal of its proceedings, and, from time to time, publishes such parts of the same as it deems proper. The yeas and nays of the members of either house, on any question, must be entered on the journal if one-fifth of those present shall desire it.

How Laws are Made. — The steps in making laws are essentially the same in Congress as in the state legislatures. When a bill is introduced by a representative, the speaker at once refers it to the proper committee. The committee having the bill in charge then takes it up for consideration, after which it is reported back to the house with a favorable, adverse, or no, recommendation. Or the committee may amend it just as it pleases. A favorable report of a bill, usually, is a great help to its passage through the house. Reports from standing committees are usually called for at each daily session. When a report of the committee is received, the bill is then

printed, and distributed among the members. Every bill must be read publicly by the clerk three times, and generally on separate days; but by unanimous consent, the house may order the three readings to be all in one day. When the bill is before the house on second reading, it can then be amended and debated. After passing second reading, it is engrossed, then it is read a third time, and voted on; if it receives the votes of a majority of all the members, it is passed. It is then taken by the clerk, and delivered in a formal manner to the senate, with the announcement that it has been passed by the house. The president of the senate then refers it to the senate committee having such bills in charge, and it passes through the senate in a manner exactly similar to that of the house. If the senate amends or changes a bill in any particular, and the house refuses to concur, it is then referred to a joint conference committee from each house. If this committee mutually agree upon some definite form for the bill, each branch of the conference committee reports to its respective house the result of the conference. When this report is adopted in both houses, the bill is then accurately written on parchment, and is technically called an enrolled bill. The speaker of the house, in the presence of the members, signs this enrolled bill, and the clerk again carries it to the senate, when the president of the senate also signs. It then goes back to the house committee on enrolled bills, which committee presents it to the President of the United States for his signature. If he approves it, he signs it, and then sends his private secretary to announce the fact to the house. The President of the United States, in person, takes the bill and gives it to the secretary of state who deposits it among the archives of the department of state. If the bill originates in the senate, the initiative, in each of these steps, is taken by the senate instead of the house, and the President makes his report to the senate instead.

If the President does not approve the bill, he returns it to the house in which it originated, with a message setting forth his objections to the bill. If the President does not return any bill within ten days (Sundays excepted) after it has been presented to him, the bill becomes a law without his signature, unless Congress should adjourn, and thus prevent its return. When he returns a bill unsigned, the effect is the same as a veto; but if two-thirds of each house repass the bill over his veto, it becomes a law without his signature. A bill that becomes a law in this way is sent by Congress to the department of state. If the President retains a bill for ten days, and Congress in the meanwhile adjourns finally, the bill, without any act on his part, is, to all intents and purposes, vetoed. This result is popularly known as a "pocket veto."

Committee Government. — In Congress, as in our state legislatures, the standing committees practically control legislation. They determine the form and much of the character of all our laws. The speaker, as we have already said, appoints the house committees. The committees of the senate are elected by the senate itself. The leading committees of the senate are commerce, finance, foreign relations, interstate commerce, judiciary, and executive departments. In the house, the most important are ways and means, appropriations, commerce, banks, currency, and the judiciary.

Impeachment. — Impeachment is the formal act of the house of representatives by which it makes accusations against the President, Vice-President, or any civil officers of the United States. It must be remembered that it is not the conviction, but only the accusation. It is analogous to an indictment by a grand jury. By "civil officers" are meant all executive and judicial officers of the National government, except those of the army and navy. The members of Congress are not considered United States civil officers.

Civil officers of a state are also liable to impeachment by the state legislatures.

The house has the sole right to institute impeachments, and the senate has the sole right to try them.

For what Offenses an Officer may be Impeached.—An officer of the United States may be impeached for treason, bribery, and other high crimes and misdemeanors. The offenses charged in the impeachment of President Andrew Johnson, in 1868, were the unlawful removal from office of the secretary of war, the appointment of another person to the same office, and the forcible attempt to obtain possession of the war department. These were called high crimes and misdemeanors. There have been seven cases of impeachment in our history, the first being that of Senator Blount, in 1798, in which trial it was determined that a senator is not a civil officer. The last one was that of W. W. Belknap, in 1876, who was secretary of war. Only two trials have resulted in conviction, that of Judge Pickering, in 1804, and of Judge Humphries, in 1862.

Manner of Impeachment.—The first step in an impeachment is the passing, by the house, of a resolution to impeach, naming the person, his office, and the offense. A committee is then appointed to appear before the senate, and make the impeachment, and demand that the accused be summoned to answer the charges. Another committee is then appointed, by the house, to prepare the articles of impeachment. The house then finally appoints a committee of managers to act for it in the trial before the senate.

The Trial.—When the senate is sitting as a high court of impeachment, the members are required to be on oath or affirmation. When trying the President of the United States, the chief justice of the Supreme Court presides. The whole

house of representatives appears before the senate, and its committee of managers presents the articles of impeachment. The proceedings are then conducted as before a court of justice. After the evidence has been introduced, and arguments of the managers and of the defendant's counsel have been heard, each senator is required to answer "guilty," or "not guilty," to each of the articles. The concurrence of two-thirds of the senators present is necessary for conviction.

The Judgment. — The constitution says that "judgment in cases of impeachment shall not extend further than removal from office, and disqualification to hold any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law."

QUESTIONS

1. In what does the constitution vest all legislative powers?
2. Why are members of the house called representatives?
3. What ancient custom do they illustrate?
4. What does the constitution say concerning the number of representatives?
5. How many members in the first house?
6. How are representatives chosen?
7. What persons can vote for a representative?
8. What are the qualifications of a representative?
9. Describe the apportionment of representatives among the states.
10. How were the slaves counted for the purpose of representation?
11. How often is an apportionment made?
12. What is the ratio of representation and how found?
13. How is the number of representatives to which a state is entitled found?
14. How do you account for congressmen-at-large?
15. What states have such congressmen?
16. What is the present ratio of representation, and the number of representatives?
17. How are territories represented in Congress?

18. How long does a Congress exist?
19. When does the official year begin? When does Congress regularly begin its sessions?
20. How many regular sessions does it hold, and by what names are they sometimes known?
21. When a vacancy occurs in the representation of any state, how is it filled?
22. How are the various congresses designated? What is the number of the present Congress?
23. Describe the organization of the house.
24. What is said of the office of speaker?
25. Name some special powers of the house.
26. Describe the composition of the senate.
27. How are senators chosen?
28. What is the term of service of a senator? How are vacancies filled?
29. What are the necessary qualifications of a senator?
30. Describe the organization of the senate.
31. Who is the presiding officer of the senate?
32. What are the special functions of the senate?
33. What is the compensation of senators and representatives?
34. What special privileges have congressmen?
35. What offices are incompatible?
36. What general authority has each house over its members?
37. What number constitutes a quorum in each house?
38. How are the records of Congress kept?
39. How are laws made?
40. What influence have the standing committees of Congress on legislation?
41. How are these committees chosen?
42. What are some of the leading committees of the senate and house, respectively?
43. What is impeachment?
44. What officers of the United States are subject to impeachment?
45. For what offenses may an officer be impeached?
46. What offenses were charged against President Johnson?
47. How many cases of impeachment in our National history?
48. Describe the manner of impeachment.
49. The trial.
50. What is the constitutional penalty to one convicted?

CHAPTER X

THE EXECUTIVE AND JUDICIAL DEPARTMENTS

The President. — The executive function of the government of the United States is vested in a single officer styled the President of the United States. It is the highest office in the power of the people to bestow. His term of service is four years, but he may be reëlected. By custom the term of services has been practically limited to two consecutive terms. Washington set the example by declining a second reëlection.

(a) *Qualifications.* No person except a natural born citizen is eligible to the presidency. He must be at least thirty-five years of age and must have been for at least fourteen years a resident in the United States.

(b) *Mode of Election.* The various steps in the election of the President are as follows :

1. A body of men called electors is chosen in each state at the general election on the Tuesday next after the first Monday of November, every four years. As many electors are chosen in each state as the state has senators and representatives in Congress. They are usually nominated by the state nominating conventions of the respective political parties. The electors, if elected, are morally bound to vote for the presidential candidate of their party. No senator or representative, or person holding any office of trust or profit under the United States, can be an elector. These electors in each state, and not the presidential candidates, are voted for at the general election.

2. The electors chosen in each state meet in their respective states, usually in the capital, on the second Monday in January,

and vote by ballot for President and Vice-President, one of whom at least cannot be an inhabitant of the same state with themselves. This convention of electors is called the electoral college. The electors make out three lists, each containing the names of the persons voted for as President and Vice-President, and the number of votes each received. These lists are signed by all the electors and sealed, and a person is appointed by them to carry one list to the president of the senate, at the seat of the National government; another is sent by mail directed to the same officer; and the third is delivered to the judge of the United States court for the district in which the electors meet.

3. On the second Wednesday in February the sealed votes received by the president of the senate are opened by him in the presence of the two houses of Congress. The votes are then counted by tellers appointed for the purpose; and the person, if such there be, having a number of votes equal to a majority of the whole number of electors appointed, is declared elected.

4. If no person has such majority of the votes for President, then from the highest three on the list of those voted for as President the house of representatives proceeds immediately by ballot, to choose a President. They vote by states, each state having one vote. Two-thirds of the states must be represented, and a majority of all the states is necessary for a choice. The balloting of the house may continue until the fourth of March ensuing, and, if there has been no choice, the Vice-President acts as President, as in the case of the death or other constitutional disability of the President. Thomas Jefferson (1801) and John Quincy Adams (1825) were elected by the house of representatives.

(c) *Minority President.* It frequently happens that the person chosen President by the electors is the candidate of a party that did not poll a majority of all the votes cast in all the states

at the general election. When this happens, such President-elect is called a "minority" President. The election of Abraham Lincoln, in 1861, is a notable example. In that year the total number of electors was 303, of which Lincoln had 180, a majority, and 1,866,352 popular vote; Breckinridge had 72 electors and 845,763 popular vote; Douglas, 12 electors and 1,375,157 popular vote; and Bell, 39 electors and 589,581 popular vote. The aggregate of the popular vote of the other three candidates is thus seen to be 2,810,501, or about a million more on popular vote than Lincoln; but he had a majority of the electors of the states and was therefore the constitutionally elected President of the United States.

(d) *Presidential Succession.* The President may be removed from office by impeachment; and in case of such removal, or death, or resignation, or inability to perform the duties of the office, the constitution provides that the duties of the office shall devolve upon the Vice-President. Four times in our history the Vice-President has become President. John Tyler upon the death of President William Henry Harrison, in 1841; Millard Fillmore upon the death of President Taylor, in 1850; Andrew Johnson upon the assassination of President Lincoln, in 1865; and Chester A. Arthur upon the assassination of President Garfield, in 1881.

On the death of Garfield, Congress was not in session, and no president *pro tempore* had been chosen before its adjournment; consequently, if President Arthur had died or become incapable, the country would have been without a President. When Congress assembled, a president of the senate was chosen, and, in addition, the Presidential Succession Act was proposed, but it did not become a law until President Cleveland's first term. This act provides that in case of the death of both the President and the Vice-President, or the removal, resignation, or inability of both of them, the secretary of state acts as President, and after him the secretary of the treasury,

secretary of war, the attorney-general, the postmaster-general, the secretary of the navy, and the secretary of the interior, in the order named. The office of secretary of agriculture was not then created.¹

(e) *His Inauguration.* At noon on the fourth of March, immediately after his election, the chief justice of the supreme court administers to the President-elect the oath of office prescribed by the constitution. The President then usually delivers his inaugural address, after which he is driven to his official residence in Washington, the executive mansion, popularly known as the "White House."

(f) *His Salary.* Until 1873 the annual salary of the President was \$25,000, but at that time it was increased to \$50,000. He draws his salary in monthly installments from the treasury of the United States.

The Vice-President.—When the state electoral colleges are in session as before described, they also vote, by distinct ballots, for a Vice-President. They also make out similar lists of the persons voted for and send them with those of the President, and they are counted at the same time. The person having a majority of electoral votes is declared Vice-President for the term of four years. If no person has such majority, the senate then proceeds at once to choose a Vice-President from the two persons having the highest number of votes. He must have the same qualifications as the President.

His Duties. The Vice-President is more closely connected with the legislative department than the executive. He becomes President on the death or removal of that official. He

¹ The acting President must, upon taking office, convene Congress, if not at the time in session, in extraordinary session, giving twenty (20) days' notice. This act applies only to such cabinet officers as shall have been appointed by the advice and consent of the senate and are eligible under the constitution to the presidency.

is the constitutional president of the senate, though he has no vote unless the senate is equally divided. He receives an annual salary of \$8000.

THE NATIONAL JUDICIARY

The judicial power of the United States is vested by the constitution in one Supreme Court and such inferior courts as Congress shall from time to time establish. The judges both of the supreme and inferior courts are appointed by the President and confirmed by the senate, and they hold their offices during good behavior. As already said, the creation of a system of federal courts entirely independent of the state courts, with power to enforce the laws and authority of the United States was the most important innovation of the present constitution.

The Supreme Court. — The Supreme Court meets in the capitol, at Washington, each year on the second Monday of October. It consists of a chief-justice and eight associate justices. A quorum consists of any six justices of the court, and the decision of a quorum is the decision of the court. Originally there were only six justices in the Supreme Court. The Supreme Court is the highest court of appeal.

Every case is discussed twice over by all the justices, once, to ascertain the opinion of the majority, which is then directed to be set forth in a written judgment; then again when that written judgment, which one of the judges has prepared, is submitted for criticism and adoption as the judgment of the court. It has original jurisdiction in all cases affecting ambassadors, other public ministers and consuls, and those in which a state is a party.

Salary of Judges of the Supreme Court. — The Chief Justice receives an annual salary of \$10,500, and the associates \$10,000.

Inferior Courts of the United States.— Congress, under its power to establish “inferior courts,” has created nine circuit courts, nine appellate courts, seventy-six district courts, the courts of the District of Columbia, territorial courts, the court of claims, and consular courts.

(a) *Circuit Courts.* The United States has been divided by Congress into nine circuits, with a total of twenty-five circuit judges. Each circuit has at least two judges; but the second, third, fifth, sixth, seventh, eighth, and ninth have three each. The circuit court may be held either by a circuit judge alone, or by the supreme court circuit judge alone, or by both together, or by either sitting along with the district judge of the district wherein the particular circuit court is held.¹

(b) *Circuit Courts of Appeal.* Circuit courts of appeal were created in 1891, especially to relieve the supreme court. To these courts cases may be brought by appeal from the district or circuit courts, with a further appeal, in some classes of cases, to the supreme court.

(c) *District Courts.* There are at the present time seventy-six district courts with a district judge for each.² The district court is the third and lowest class of federal tribunals. Their jurisdiction is prescribed by Congress.

(d) *Court of Claims.* The court of claims, presided over by a chief justice and four associates, meets in Washington. It

¹ The nine circuits are: 1. Maine, New Hampshire, Massachusetts, and Rhode Island. 2. Vermont, Connecticut, and New York. 3. New Jersey, Pennsylvania, and Delaware. 4. Maryland, West Virginia, Virginia, North Carolina, and South Carolina. 5. Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas. 6. Ohio, Michigan, Kentucky, and Tennessee. 7. Illinois, Indiana, and Wisconsin. 8. Minnesota, Iowa, Missouri, Kansas, Arkansas, Nebraska, Colorado, North Dakota, South Dakota, Wyoming, Indian and Oklahoma Territories, and Utah and New Mexico. 9. Alaska, Arizona, California, Idaho, Montana, Nevada, Oregon, and Washington.

² In some cases one judge fills two districts, e.g., Northern Alabama and Middle Alabama, two in Mississippi, and others.

has jurisdiction over claims pending against the United States. As the United States cannot be compelled to pay anything it owes, Congress organized this court as a judicial commission to examine all claims against the United States and report its decisions to Congress. Congress can then order payment.

(e) *Courts of the District of Columbia.* The courts of the District of Columbia are a supreme court and a court of appeals. The supreme court is presided over by a chief justice and five associates, who receive an annual salary of \$5000 each. The court of appeals consists of a chief justice and two associates. The chief justice receives \$6500 annually and the associates \$6000 each.

(f) *Officers of the United States Courts.* The circuit judges appoint commissioners to perform various duties, the chief of which are to arrest and hold for trial persons accused of violating Federal statutes, and to take testimony for the district and circuit courts. In the absence of a commissioner, state or federal judges, a justice of the peace or a magistrate may perform his duties.

In each of the districts the President appoints a marshal and a district attorney. The marshal is the executive officer of the district and circuit courts, his duties being similar to those of a sheriff in a state court. The writs issued by the federal courts can be enforced anywhere in the United States. Each of these courts has a clerk, and the supreme court and some others have a special reporter.

(g) *Salaries of the Inferior Court Judges.* The annual salary of a circuit court judge is \$6000; the judges of the court of claims receive \$4500; district court judges receive \$5000.

(h) *Jurisdiction of the Federal Courts.* The jurisdiction of the federal courts may be briefly summarized as follows:

I. A Federal court has jurisdiction in every legal action wherein the plaintiff or defendant relies upon a Federal statute.

If the action has been brought in a state court (and every litigant has that option), and it involves a Federal enactment or treaty, and the state court questions the validity of the Federal treaty or statute to the detriment of the litigant in whose interests it has been invoked, the action may then be removed, before or after judgment, to the United States court.

2. All cases affecting ambassadors, consuls, or other public ministers.

3. "Cases of admiralty and maritime jurisdiction."

4. "Controversies to which the United States shall be a party." This provision protects the United States from being obliged to sue or be sued in a state court, to whose decision the National government could not be expected to submit.

5. "Controversies between (a) two or more states, between (b) a state and a citizen of another state,¹ between (c) citizens of different states, between (d) citizens of the same state claiming lands under grants of different states, and between (e) a state or the citizens thereof and foreign states, citizens or subjects."

The Supreme Court has, in addition to the original jurisdiction (p. 259) already mentioned, extensive appellate jurisdiction.

The criminal jurisdiction of the Federal courts is purely statutory. "The United States as such can have no common law. It derives its powers from the grant of the people by the Constitution, and they are all to be found in the written law, and not elsewhere."² The procedure of the Federal courts is prescribed by Congress, subject to the constitutional guarantee of trial by jury in criminal cases and suit at common law.

(i) *Military and Naval Courts.* Military offenses at critical times demand speedy trial. On this account such offenses are tried before a military or naval commission called a court-

¹ See the XIth Amendment.

² Cooley's *Principles*, p. 131.

martial. The President of the United States is the only authority that can pardon persons found guilty by this court. An order of Congress, or of the President with the consent of Congress, can reopen a case decided by a court-martial.

QUESTIONS

1. Who is the chief executive of the United States?
2. What is his term of service, and how often may he be reëlected?
3. What persons are eligible to this office?
4. Describe the manner of his election.
5. What is meant by a minority President?
6. Under what circumstances does the Vice-President succeed to the presidency?
7. What Vice-Presidents have succeeded to the office? When?
8. What circumstances influenced Congress to pass the Presidential Succession Act?
9. What are its provisions?
10. Describe the inauguration of a President.
11. What is the President's salary?
12. How is the Vice-President elected?
13. What are his duties? His salary?
14. In what is the Judicial power of the United States vested?
15. How are the various judges chosen and for what terms?
16. When and where does the Supreme Court meet?
17. How is it constituted?
18. How many judges make a quorum?
19. How are questions considered by the Supreme Court?
20. In what cases has it original jurisdiction?
21. What salaries do the judges receive?
22. What inferior courts have been created by Congress?
23. Describe the circuit courts. In which circuit is your state?
24. Describe the Circuit Courts of Appeal.
25. Describe the District Court.
26. Describe the Court of Claims.
27. What courts are peculiar to the District of Columbia?
28. What are the officers of a United States court?
29. What are the salaries of some of the Inferior court judges?
30. Summarize the jurisdiction of the Federal courts.
31. How are military offenses punished?

CHAPTER XI

POWERS OF CONGRESS; POWERS DENIED TO THE STATES

I. FINANCE

The power granted by the constitution to Congress "to lay and collect taxes, duties, imposts, and excises to pay the debts, and provide for the common defense," is one of the best illustrations of the superiority of our National government now over what it was under the articles of confederation. It marks a complete transfer of the sovereign right of taxation from the state to the nation.

What is a Tax? Money? — A tax has been defined as "a contribution imposed by a Government on individuals for the services of the State." The contribution of the individual is in the form of money; and money is a measure of value, and a medium of exchange. Duties, in a restricted sense, are taxes upon articles imported or exported. Excises are taxes upon articles manufactured or produced for home consumption. Gold and silver are used by all nations in the coinage of money, chiefly because of their intrinsic value. Congress alone has power to coin money, and to regulate its value. For the coinage of money Congress has established mints at Philadelphia, San Francisco, New Orleans, Carson, and Denver; and assay-offices at New York, Boise, Deadwood, St. Louis, Seattle, and Helena. Congress punishes severely counterfeiters of the money of the United States. The right to coin money implies the right to issue paper money in the form of bills; but they are only evidences of a credit, and are a promise to pay in coin at some future time. The United States issues

bills of credit, as substitutes for gold and silver, which, under certain restrictions, pass as money. These bills of credit consist of treasury notes, National bank notes, and gold and silver certificates. When the ordinary revenues of the government are not sufficient to meet its expenses, Congress adopts this plan of keeping up the circulation, and of obtaining funds rather than by increasing taxation. Congress has the power to make such money a legal tender, and, when so declared, a creditor must receive it in payment, or forfeit his right to interest on the amount due him.

Treasury Notes. — Treasury notes are simply promises to pay, made by the United States. They are sometimes called “greenbacks,” and they are a legal tender at their face value for all debts public and private, except duties¹ on imports and interest on the public debt.

National Bank Notes. — National banks are private corporations organized for profit, under federal laws. Besides being banks of deposit, they can issue bank notes, within certain limitations, which are a legal tender in the payment of all dues to the United States except import duties, and for all dues from the United States except interest on the public debt.

National Banks. — Congress created the National Banking system on the 25th of February, 1863, which law, with one or two revisions, is in force to-day. This law permits any number of persons, not less than five, to organize a corporation, and secure a charter for a national bank from the government of the United States. The stockholders elect the directors, and the directors the other officers. In order to become a bank of issue, they must purchase United States bonds which are deposited with the treasurer of the United States, and the bank receives in lieu of the bonds nine-tenths of their aggregate amount in national currency, or bank bills

¹ By act of July 14, 1890, treasury notes are a legal tender for duties.

printed by the government, and ready to be signed and issued by the bank as money. If they purchase \$50,000 worth of bonds, they will receive \$45,000 in unsigned paper currency for circulation. This is done to protect holders of national bank notes in case the bank should become insolvent; as the bonds secure the redemption by the government of the notes in circulation. As an additional security, national banks are required to create a surplus fund by setting apart each year ten per cent of the profits of the bank until it equals twenty per cent of the capital of the bank. Such banks are also required to maintain a reserve fund equal to about twenty per cent of the capital of the bank. The government also appoints bank examiners to inspect frequently the financial condition of national banks.

Two Kinds of Taxes. — Taxes are divided into two classes — direct and indirect. Direct taxes include both the tax on individuals called a poll-tax; and taxes on land, houses, and other real estate. Direct taxes must be apportioned as representatives — according to the population of the several states. Direct taxes are very rarely levied by the government of the United States.

Indirect Taxes. Goods, wares, and merchandise, brought into the country, are called imports. Indirect taxes include duties, imposts, and excises. There are no duties on exports. Duties on imports are of two kinds, called, respectively, specific and *ad valorem* duties. A specific duty is proportioned to the quantity of the article imported; while *ad valorem* duties are proportioned to the market value of the article in the country from which it comes, as shown by an invoice attached. A duty of \$5 on a ton of steel would be specific; a duty of forty per cent on silk would be *ad valorem*. A duty is popularly known as a tariff, and tariffs are distinguished as revenue and protective, respectively.

Revenue Tariff. — Both kinds of tariff produce revenue, and a purely revenue tariff is almost impossible unless only imposed on a few articles which cannot be produced in our country. When little revenue is needed for the government, a revenue tariff “with incidental protection” is quite feasible.

Protective Tariff. — A protective tariff is one that not only affords revenue, but, by imposing a heavy duty on that class of importations which we are producing in the United States, practically shuts off the foreign articles from our markets. The duty collected at the custom house makes the price of the foreign goods higher than the American product, which, of course, results in keeping the home market for the home manufacturer, thus protecting his interests. If the foreign manufacturer can produce a ton of railroad iron, and land it in New York for \$20 a ton, and it costs our manufacturers \$25 a ton ready for the market, it will be readily seen that the home product will be driven out of the market. If Congress now compels the importer of foreign iron to pay \$10 a ton duty, before allowing it to land, the ton of iron will then be \$5 higher in price than the American. The result will be reversed, for the home product will secure the market.

Internal Revenue. — Government revenue derived from taxes on spirits, tobacco, fermented liquors, and certain amounts from fines for violating revenue laws, is called internal revenue. Taxes of this sort, like the customs, are indirect. The government receives a large revenue from this source, as well as from customs duties.

Other sources of revenue are the patent-office, copyrights, fines, escheats, and penalties.

Method of Collecting Duties. — For convenience in collecting duties on goods imported from foreign countries, custom-houses are established at different places on the seacoast, on

the navigable rivers, and on the boundary-line between the states and the Dominion of Canada, and the Republic of Mexico. There are now about 175 collectors and surveyors of customs in the United States, besides a large number of deputies.

The excise duties, constituting the internal revenue of the United States, are collected on the articles already mentioned, by means of "revenue collectors" who, for convenience, are assigned to districts. The collector for the district has his office usually in some city or town conveniently located for the people of the district. He is assisted in his duties by a number of deputies who travel over the district in order to see that the revenue laws are not violated.

Expenses of the Government. — Congress not only has the power to create a revenue for the government, but has control of its expenditure. The money raised, in the manner described, is appropriated for the following general purposes: —

1. For the salaries of the government officials, erection and care of public buildings and grounds.
2. To pay the principal and interest of the public debt.
3. To maintain the army and navy.
4. To pay pensions and war claims.
5. To support government institutions, museums, hospitals, etc.

2. COMMERCE

Congress has power to regulate commerce with foreign powers, and among the several states, and with the Indian tribes.

It declares what vessels are entitled to protection as American, and by what method such protection may be secured. It declares what places shall be ports of entry for cargoes, and the rules governing the entering and leaving of ports. It frames rules for the government of seamen on board of Amer-

ican vessels, and for administering justice to them through its courts. It sends consuls to foreign ports to protect the commercial interests of our citizens. It makes coast surveys, clears harbors and rivers from obstructions to navigation, builds breakwaters, erects lighthouses and buoys, and enacts laws respecting pilotage, quarantine, and wrecking.

Weights and Measures. — Congress has the power to fix the standard of weights and measures, but has not done so. It has legalized the use of the metric system.

Bankrupt Law. — A bankrupt is a person who is insolvent, or unable to pay his debts. A law that divides the property of an insolvent among his creditors, and discharges him from legal obligation to make further payment, is called a bankrupt law. Congress can pass a uniform bankrupt law, but, owing to the character of the subject, it is a difficult matter. It has passed four such laws, one in 1800, one in 1840, one in 1867, and the one now in force, in 1898. When there is no National bankrupt law, the state laws on the subject prevail.

3. NATURALIZATION

Citizens. — “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside.” (Amendment XIV.) An alien or foreigner, except he be a Mongolian, can become a citizen with all the rights and privileges of citizenship, excepting eligibility to the presidency, by becoming naturalized. The process of naturalization involves the following steps: —

1. The alien or foreigner must make application for citizenship by declaring his intention to become a citizen.

2. He must make oath to this intention before a court of

record, and declare that he voluntarily renounces all allegiance to the government of which he had heretofore been a citizen. This declaration must be made two years before he can receive his final naturalization papers.

3. He must prove before the court, or some other one having the same jurisdiction, that he has resided in the United States at least five years, and in the state or territory at least one year, and that during that time he has borne a good moral character, and has been well disposed toward the constitution and the government. The court then gives him a certificate of citizenship.

4. Any alien of good moral character, and at least twenty-one years of age, who has an honorable discharge from the military service of the United States, may become a citizen on his petition, without any previous declaration of intention, provided he has resided during the then current year in the United States.

The wife, and the children under twenty-one years, of a naturalized citizen also become citizens by the act of the husband and father. The children of American citizens born abroad are American citizens.

4. POSTAL COMMUNICATION

Congress has the power "to establish post-offices and post roads." In consequence of this power, Congress has created a vast postal system for the country at an annual cost of about \$100,000,000. The contract for carrying the mails is given out by the government to the lowest responsible bidder. All postmasters whose salaries are \$1000 a year, or more, are appointed by the President for a term of four years. All others are appointed by the postmaster-general at his pleasure. The postmasters in the smaller places receive a percentage of the income of their offices. All towns in which the gross receipts

of the post-office amount to \$10,000, or more, have free mail delivery by means of letter carriers.

5. PATENTS AND COPYRIGHTS

Congress has the power "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

Patent. — A patent "is a written instrument by which the Government secures to an inventor the exclusive right to manufacture and sell his invention." The patent is issued by the commissioner of patents for a term of seventeen years, which time may be extended by him if he thinks the invention is sufficiently meritorious. The cost of a patent right is \$35.

Copyrights. — A copyright "is the exclusive privilege granted by the Government to print, publish, and sell copies of writings and drawings." Copyrights are obtained at the office of the Library of Congress. The cost is one dollar and two copies of the book or other work published. A copyright continues in force for twenty-eight years, and on the expiration of this time, the author, if living, or his wife, or his children, if he be dead, may have the right continued fourteen years longer.

6. PIRACIES AND FELONIES

Congress has power "to define and punish piracies and felonies on the high seas, and offenses against the law of nations." By "high seas" is meant the unenclosed waters of the ocean, as well as those waters on the seacoast which are without the boundary of low-water mark.

Piracy. — In a general way, piracy may be defined as robbery or forcible depredation on the high seas, or any offense,

which, committed on land, would incur the death penalty. Engaging in the slave trade was declared to be piracy. Piracy is punishable with death.

7. CONGRESS WITH RESPECT TO WAR

In respect to war, Congress has power "to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water."

Letter of Marque. — A letter of marque and reprisal is a commission issued by the government to a private individual to take the property of a foreign state with which we are at war, or of the citizens or subjects of such state, and appropriate it.

The Army. — Congress has full power to raise and support an army and navy, and make rules for the regulation of the same. The highest title in the army is Lieutenant-General, and in the navy, Admiral, but higher titles can be created by act of Congress.

In pursuance of this military power, Congress has established a Military Academy at West Point, and a Naval Academy at Annapolis.

Military Academy. — The Military Academy was established by Congress in 1802, and is located at West Point, N.Y. The course of instruction requires four years. Each congressional district and territory — also the District of Columbia — is entitled to have one cadet at the academy. There are also ten appointments at large, specially confirmed by the President of the United States.

Appointees to the academy must be between seventeen and twenty-one years of age, free from any infirmity which may render them unfit for military service, and be able to pass a careful examination in reading, writing, orthography, arithmetic, grammar, geography, and history of the United States.

The government pays a cadet \$540 a year for his expenses. All graduates are commissioned as second lieutenants in the army of the United States.

Naval Academy. — The Naval Academy is located at Annapolis, and was founded in 1845. The course at the Naval Academy is six years. There is one cadet allowed for each representative, one for the District of Columbia, and ten at large. The pay of a naval cadet is \$500 a year.

8. THE TERRITORY OF THE UNITED STATES

Congress has the power to exercise "exclusive legislation in all cases whatsoever" over the District of Columbia, and over all places purchased by the government for its own use,¹ as post-offices and other buildings, forts, arsenals, and navy-yards, which it has erected.

Organized Territories. — The organized territories of the United States are Arizona, New Mexico, Oklahoma, and Hawaii.² The government of such a territory consists of a governor, secretary, and territorial judges appointed by the President for four years. The legislature consists of a house of representatives and a council, the members of which are elected by the qualified voters of the territory. Alaska is unorganized, but has a governor and commissioners appointed by the President and confirmed by the senate.³

9. POWERS DENIED TO THE UNITED STATES

Habeas Corpus. — Congress cannot suspend the privilege of the writ of habeas corpus "unless when in cases of rebellion or

¹ This is true only when the state in which such territory is located transfers the title to it, and the jurisdiction over it, to the National Government.

² Act of April 30, 1900.

³ Porto Rico is not fully "organized" in the above sense.

invasion the public safety may require it." This ancient but efficient safeguard to the personal liberty of the citizen, is issued in the form of a writ, by a judge or court, requiring the body of a person restrained of liberty, to be brought before the judge or into the court, that the lawfulness of the restraint may be investigated and determined. Before this famous writ became an efficient instrument of the English law, men were thrown into prison on trumped-up charges and often kept there for life without being given an opportunity to be heard in their own defense. The writ is now often invoked, and there is hardly a state or federal court that has not been called upon to issue it. Many of our state constitutions have the same provision regarding it as the National constitution.

Bills of Attainder; Ex Post Facto Laws. — Congress is denied the right to pass bills of attainder or *ex post facto* laws. Under the English law a bill of attainder was often passed, whereby the civil rights of a person, who had been executed for treason or felony, were set aside so that his heirs could not inherit his estate, which was thus forfeited to the Crown. An *ex post facto* law is one that fixes the penalty after the deed is done. It would make a deed a crime that was not so when committed.

Commercial Equality of the States. — Congress cannot pass laws in regard to commerce or revenue which would give a preference to the ports of one state over those of another. Vessels bound to or from one state cannot be obliged to enter, clear, or pay duties in another.

How Money is Drawn from the Treasury. — No money can be drawn from the treasury of the United States except by means of an appropriation passed by Congress. A regular

statement of the receipts and expenditures must be made and published at frequent intervals.

Titles of Nobility. — It is a fundamental theory of our government that all men are created free and equal before the law, hence Congress and the states are forbidden to grant any title of nobility either to a citizen of the United States or to a citizen of any other country. Neither can a person, holding an office of profit or trust, accept any present, emolument, office or title of any kind whatsoever, from any king, prince, or foreign state, without the consent of Congress.

10. POWERS DENIED TO THE STATES

The subordinate relation of the states to the National government is well shown by the following numerous prohibitions:

(1) The states are forbidden to enter into any treaty, alliance or confederation; to grant letters of marque and reprisal; coin money or emit bills of credit; to make anything but gold and silver coin a tender in payment of debts; pass bills of attainder or *ex post facto* laws, or laws impairing the obligation of contracts; or grant any title of nobility.

(2) The states cannot, without the consent of Congress, lay any imposts or duties on imports or exports, except such as may be necessary in order to enforce their inspection laws; but the revenue so derived must be paid over to the treasury of the United States; and the laws under which these inspections are secured are subject to the revision and control of Congress.

(3) The states are forbidden, without the consent of Congress, to lay any tonnage duty, keep troops or ships of war in time of peace, make compacts with one another or with foreign powers, or engage in war unless actually invaded or in such imminent danger as will not admit of delay.

II. NEW STATES AND TERRITORIES

Admission of New States. — Congress has power to admit new states; but no new state can be formed out of any other state, nor by the junction of states or parts of states, without the consent of the legislatures of the states concerned and the consent of Congress. There are two ways by which a territory may become a state. The one method is for the people of the territory desiring to become a state, to call a convention and frame a state constitution, which they submit to Congress with a petition asking to be admitted to the Union. If the constitution provides for a republican form of government, Congress may pass an act of admission. By the other method, Congress takes the first step by passing an enabling act, which allows the people to form a state constitution, and also allows the President to issue a proclamation recognizing the new state, providing the government is republican in form.

New States.¹ — The following are the new states, with the dates of their admission:

Vermont, March 4, 1791.	Maine, March 15, 1820.
Kentucky, June 1, 1792.	Missouri, August 10, 1821.
Tennessee, June 1, 1796.	Arkansas, June 15, 1836.
Ohio, February 19, 1803.	Michigan, January 26, 1837.
Louisiana, April 30, 1812.	Florida, March 3, 1845.
Indiana, December 11, 1816.	Texas, December 29, 1845.
Mississippi, December 10, 1817.	Iowa, December 28, 1846.
Illinois, December 3, 1818.	Wisconsin, May 29, 1848.
Alabama, December 14, 1819.	California, September 9, 1850.
	Minnesota, May 11, 1858.

¹ The dates given above are those upon which the admissions took effect.

Oregon, February 14, 1859.	S. Dakota, November 3, 1889.
Kansas, January 29, 1861.	Montana, November 8, 1889.
West Virginia, June 19, 1863.	Washington, November 11, 1889.
Nevada, October 31, 1864.	
Nebraska, March 1, 1867.	Idaho, July 3, 1890.
Colorado, August 1, 1876.	Wyoming, July 10, 1890.
N. Dakota, November 3, 1889.	Utah, January 4, 1896.

12. POWER OF AMENDMENT

The constitution has provided two ways by which it may be amended.

(1) *By Congress.* Whenever two-thirds of both houses of Congress shall agree to a proposed amendment.

(2) *By a Convention.* Whenever the legislatures of two-thirds of the states shall make application, Congress shall then call a convention to consider the amendments proposed.

Ratification. — By whichever of these methods the amendments are proposed, they must be ratified, either by the legislatures of three-fourths of the states; or by conventions in three-fourths of the states, before they become valid parts of the constitution.

13. PUBLIC DEBT, SUPREMACY OF THE CONSTITUTION, AND OATH OF OFFICE

The constitution, as a safeguard to National integrity, provided that all contracts of whatever nature that had been entered into under the articles of confederation, should be binding under the constitution. It further proclaimed its own sovereignty by insisting that it was "the supreme law of the land," and that the judiciary of every state was bound by it, "anything in the constitution or law of any state to the contrary notwithstanding." It also provided that all United States

senators and representatives, executive and judicial officers, and all state executive, legislative, and judicial officers "shall be bound by oath, or affirmation, to support this constitution." It, however, expressly proclaims liberty of conscience by forbidding that any religious test shall ever be required as "a qualification to any office or public trust under the United States."

QUESTIONS

1. To what extent has Congress power to lay and collect taxes?
2. What is a tax? What is money?
3. What are duties? Excises?
4. What power has Congress with reference to coining money?
5. What provision has Congress made for coining money?
6. What does the right to coin money imply?
7. In what form has Congress issued bills of credit?
8. What is a legal tender?
9. What are treasury notes?
10. National bank notes?
11. How are national banks created?
12. Under what circumstances can they issue money?
13. What is meant by the "surplus fund" of a national bank?
14. How many kinds of government taxes are there?
15. What are direct taxes? Indirect?
16. Describe the two kinds of duties.
17. State the difference between a "revenue" and a protective tariff.
18. What is meant by internal revenue?
19. How are customs duties collected?
20. By whose authority is the revenue expended?
21. For what purposes has Congress power to appropriate money?
22. What power has Congress over commerce?
23. What is a bankrupt law? What power has Congress concerning such law?
24. What is the difference between an alien and a citizen?
25. How can an alien become a citizen? What is the process?
26. What power has Congress concerning postal communication?
27. By whom are postmasters appointed?
28. What are presidential offices?
29. What is a patent, and how secured?

30. What is a copyright, and how obtained?
31. What is meant by "high seas"?
32. What is piracy?
33. What is treason?
34. What power has Congress with respect to war?
35. What is a letter of marque?
36. Tell all you can of the West Point Military Academy.
37. Describe the Naval Academy.
38. Over what territory of the United States has Congress exclusive control?
39. Name the organized territories of the United States, and tell how governed.
40. Describe the writ of habeas corpus.
41. What is a bill of attainder? An *ex post facto* law?
42. What is the commercial status of the states?
43. In what way is money drawn from the treasury of the United States?
44. Can Congress grant titles of nobility?
45. Name some powers denied to the states.
46. How are new states admitted?
47. In what two ways can the constitution be amended?
48. What provision was made to protect contracts made under the Articles?
49. What oath are state and National officers required to take?
50. Can a person be debarred from holding a public office on account of his religion, or lack of religion?

CHAPTER XII

THE AMENDMENTS

The Constitution, as already explained, provides methods whereby it may be amended. However, there is one provision of the Constitution that cannot be changed by the regular process. This exception curiously perpetuates the memory of the former rivalry between the small and the large states. It will be remembered that this contention was what caused the Convention of 1787 to form a bicameral Congress in order that there might be one house in which all the states would be equal. The creation of a senate with two senators from each state was a concession to the small states, and, in order that this safeguard might not be taken from them, they inserted in the Constitution (Article V) the clause that "no State without its consent shall be deprived of its equal suffrage in the Senate." Of course, "if a State were to consent to surrender its rights, and three-fourths of the whole number to concur, the resistance of the remaining fourth would not prevent the amendment from taking effect."¹

The First Ten Amendments. — Fifteen amendments in all have been made to the Constitution, although over seventeen hundred² have been proposed. The first ten amendments were finally ratified in 1791, so soon after the adoption of the Constitution that they ought to be regarded as a supplement or post-script to it rather than as changing it. They are popularly called a "Bill of Rights," after the famous English Bill of Rights

¹ Bryce, vol. I, p. 365.

² American Historical Association Report for 1896, vol. II, p. 307.

signed by William and Mary in 1689. It will be remembered that several of the states, when they ratified the Constitution, recommended certain amendments to guard the states against the encroachments of the Federal power. The first eight guarantee, (a) religious freedom, freedom of speech and of the press; (b) the right to meet together, and the right of petition; (c) the right to keep and bear arms; (d) the exemption of the citizens from the necessity of quartering soldiers in their houses; (e) the right to be protected from unlawful search and seizure; (f) the right to prompt and impartial justice, and trial by jury; and (g) exemption from excessive bail, and from cruel and unusual punishments. The ninth amendment declares that the enumeration of certain specific rights does not imply others retained by the people may be denied or disparaged. The tenth states that all powers delegated to the general government not expressly denied to the states "are reserved to the States respectively or to the people."

Eleventh Amendment. — The eleventh amendment was declared in force in 1798. It denies the right of a citizen of a state, or the citizen or subject of a foreign state, to sue another state. The Supreme Court in a famous case¹ decided that under Article III, Section 2, of the Constitution a private citizen of a state might bring suit against a state other than the one of which he was a citizen. This decision was so displeasing to many of the states that the eleventh amendment was ratified with little difficulty.

The Twelfth. — The twelfth amendment prescribes the manner of electing the President and Vice-President. It was occasioned by the bitter contest in the house of representatives which resulted, in 1801, in the election of Jefferson and Burr. It became operative in 1804.

¹ *Chisholm versus The State of Georgia.*

The Electoral Commission. — At this point it will be proper to say a few words regarding the disputed Presidential election of 1876. The election that year was so close that a change of a few electors would decide the election. In consequence a dispute arose regarding the counting of the returns from Louisiana, Florida, South Carolina, and one electoral vote of Oregon; and there were double returns from these states. The Constitution not affording a solution, a compromise was effected by referring the returns from these states and all other doubtful ones to an electoral commission consisting of five representatives, five senators, and five justices of the Supreme Court. The commission decided all cases of dispute in favor of the Republican candidates, R. B. Hayes and W. A. Wheeler, candidates for President and Vice-President respectively. The Democratic candidates for these offices were Samuel J. Tilden and Thomas A. Hendricks.

The Thirteenth. — The last three amendments practically embody the results of the Civil War. They mark a great political crisis. The thirteenth was ratified in 1865. It abolished and prohibited slavery within the United States. President Lincoln's emancipation proclamations of 1862-1863 had no further legal sanction than the exigencies of a great civil war which threatened the very life of the nation. When peace was secured, constitutional methods for freeing the slave had to be adopted.

The Fourteenth. — The fourteenth amendment, ratified in 1868, was an outgrowth of the civil rights bill passed by Congress in 1865. Congress could give freedmen the right to sue and be sued, to make contracts, and could punish by fine and imprisonment any person interfering with those rights, but it could not give them the right to vote, because suffrage is a prerogative of the states. In order that they might not be discriminated against an amendment was necessary. This

amendment guarantees political and civil rights to all persons born or naturalized in the United States; apportions the representatives among the several states according to population, counting the whole number of persons in each, excluding Indians not taxed; provides for the reduction of the representation of any states that deny to any male citizen twenty-one years of age the right to vote at any election for any National and state officers, the representation of such states to be reduced in the proportion which the number of such disfranchised citizens bears to the whole number of male citizens twenty-one years of age; excludes from office civil or military, either in the state or Nation, all such persons who had previously, as officials of the state or Nation, sworn to support the Constitution, and then afterwards given aid to those in rebellion — Congress was given power by a two-thirds vote to remove such disability. It also establishes the validity of the public debt, but forbids the payment by the United States or any state of any debt incurred in aid of rebellion, or any claim for emancipated slaves.

The Fifteenth. — The fifteenth amendment was ratified in 1870 and affirms that the right of suffrage shall not be denied or abridged by the United States or any state “on account of race, color, or previous condition of servitude.” This amendment practically gives the freedman the right to vote, as it prohibits any state from depriving him of it because he is a negro or has been a slave.

The last three amendments were passed during a greatly disturbed period in our history, and they all refer to the former slave population — an unfortunate class that, innocently on their part, has done more to divide us as a nation than any other class or question. Congress, in legislating for these people, owing to the intense political passions of the times, was compelled to use heroic measures; and, in consequence,

the wisdom of these various measures bearing on this sensitive and intricate question can be best judged by the next generation.

QUESTIONS

1. What provision of the Constitution cannot be changed by the ordinary process of amendment? Why?
2. By what name are the first ten amendments popularly known?
3. Name some of the provisions of the first eight amendments.
4. What is the purport of the ninth?
5. What is the meaning of the tenth?
6. What was the origin of the eleventh?
7. What was the origin and purpose of the twelfth amendment?
8. What was the Electoral Commission?
9. What is the general character of the last three amendments?
10. What is the purport of the thirteenth amendment?
11. Why was it necessary?
12. Of what was the fourteenth amendment an outgrowth?
13. What are the provisions of the fourteenth amendment?
14. What penalty does it prescribe for a state that disfranchises the freedmen?
15. What is the general nature of the fifteenth amendment?
16. Are the amendments equally binding with the Constitution proper?

CHAPTER XIII

THE PRESIDENT AND HIS CABINET

We have already spoken generally of the Executive, but we will now more fully discuss some of his powers and duties. He is the administrative head of the government and, as such, is given sole power to enforce the laws of Congress and to maintain the power and dignity of the Nation.

Commander-in-chief. — The Constitution makes him commander-in-chief of the army and navy of the United States, and of the militia of the states when in the actual service of the United States. In practice, he does not lead the armies in the field, but he appoints and removes all its officers, and assigns to them their duties and stations.

Pardons. — He can grant pardons and reprieves for offenses against the United States, except in cases of impeachment.

Treaties. — If two-thirds of the senate concur, he can make treaties with foreign powers. The treaties are usually framed by agents of our government in conjunction with those of the foreign state.

Appointments. — The making of appointments is one of his most trying duties. It is his duty to nominate, and, by and with the advice and consent of the senate, to appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, postmasters for the larger cities and towns, custom-house and internal revenue officials, and many others. To relieve him of much of this responsibility and also to en-

sure more efficient service on the part of many of the minor officials, Congress provided by law for a system of examinations for applicants in order that fitness and not political services should be the qualification for the same. In 1829, President Jackson, in order to reward his political friends, removed from office many of those who had been in service for many years but were not his own political adherents, and filled their places with those of his own party. After this time, all the successive presidents adopted this plan which is known as the "spoils system," until it came at last to be considered a duty of the President. The result is that much of the time of the President is taken up by office-seekers whose sole qualification is their alleged invaluable party service.

The Civil Service Act. — The original Civil Service Act was passed in 1871, and went into operation for three years, beginning January 1, 1872. After some revision, it was afterwards revived, and is now in operation, but has not been carried out to the full extent of its original design. It provides for three commissioners whose business it is to see that the law is properly enforced. Those employees of the government that come under the provisions of the law are put in classes, and special examinations are provided for each class. Therefore any clerk or employee that is in the classified service of the United States is subject to the Civil Service Act. Applicants seeking to be examined must file an application stating the special service they wish to enter, as Railway Mail, Indian School, Postal, or Internal Revenue. Applicants must be citizens of the United States, and of the proper age. When an applicant passes an examination in any class, his name is registered among the eligibles for a vacancy in that class. Those having the highest grade are first on the list of eligibles. This law has already done much toward doing away with the evils of the spoils system.

Diplomatic and Consular Service. — The diplomatic agents of our government, to whom are entrusted the foreign relations of the United States, are of four grades, but classified with reference to the character of their service, into political and commercial agents. The four grades are Ambassadors, Envoys extraordinary and Ministers plenipotentiary, Ministers resident, and Chargés d'affaires. The first three grades are accredited by the President to the head of government of the countries to which they are sent; the fourth are accredited by the secretary of state to the minister of foreign affairs in the countries to which they are sent.

Consuls exercise a protective care over our seamen and perform various duties for Americans abroad. They can administer estates for the heirs of deceased Americans, and take testimony. Our government has consuls at all the principal cities of foreign countries. The salaries of the ambassadors range from \$17,500 to \$12,000; of envoys, from \$10,000 to \$5000 annually. Ministers and consuls range from \$5000 to \$1500. When the senate is not in session and a vacancy occurs in any appointive office, the President has the power to fill it by issuing a commission to expire at the end of the next session of the senate.

Messages. — At the opening of each annual session of Congress, the President sends a message setting forth in writing his opinions and suggestions, and giving any information he may have regarding the state of the Union, and recommends such measures as he may judge necessary and expedient.

THE PRESIDENT'S CABINET

Besides these special duties of the President, there are many others that cannot be personally attended to by him. On this account the work of the Executive has, by act of Congress, been divided up among eight departments, over which is placed

an officer appointed by the President and confirmed by the senate. The heads of these eight departments constitute the President's Cabinet.

The following are the departments in the order of their creation: the Department of State, July 27, 1789; the Department of War, August 7, 1789; the Treasury Department, September 2, 1789; the Post-Office Department, May 8, 1794; the Navy Department, April 30, 1798; the Interior Department, March 3, 1849; the Department of Justice, June 22, 1870; the Department of Agriculture, February 9, 1889.

The members of the Cabinet are usually in political accord with the President, or, at least, supposed to be when appointed. Cabinet officers hold their offices at the will of the President, and are directly responsible to him. They each receive an annual salary of \$8000.

Department of State. — The Secretary of State, who stands at the head of the Department of State, is considered the first officer in the Cabinet. The two functions of this department are those relating to domestic affairs and foreign affairs. He has three assistant secretaries. He has the custody of the great seal of the United States and affixes it to all State documents with his signature. To his department are entrusted the originals of all laws passed by Congress, and all treaties and foreign correspondence. Under the direction of the President, the secretary conducts the foreign and diplomatic business of the country. Passports are issued by this department to persons needing them while travelling in foreign countries.

Department of War. — Through this department the President superintends the military affairs of the United States. The secretary has charge of the army records, the oversight of the signal service, and the improvement of rivers and harbors. There is a number of bureaus in this department: the offices

of the Adjutant, Inspector, Quartermaster, Commissary, Paymaster, and Surgeon Generals, the Chief of Engineers, the Chief of Ordnance, and the Chief Signal Office, Judge Advocate-General, and the office of the Military Academy at West Point.

Department of the Treasury. — The first Secretary of the Treasury was Alexander Hamilton, who successfully organized it. It was one of the four departments that were organized at the beginning of Washington's first term as President; the other three being the departments of War and State, and the office of Attorney-General.¹ This department prepares plans for the management of the public revenue and the improvement of the public credit. The secretary receives and disburses all money coming to the government and attends to the collection of the revenue. He makes an annual report to Congress of the state of the revenue. The several auditors of his department examine the accounts of the different branches of the public service, and the comptroller certifies the results to the register who has charge of the accounts. There is also a commissioner of Customs, a comptroller of the Currency, who looks after the National Banks, and a commissioner of Internal Revenue. There are, in addition, directors of the mint, chief of statistics, and of engraving and printing. In the office there are also three assistant secretaries of the Treasury. This department superintends the lighthouse system, the coast survey, the inspection of steam vessels, the marine hospitals, and the life-saving service.²

The Post-Office Department. — President Jackson was the

¹ The Attorney-General was not a Cabinet officer at first. The Department of Justice was not created until 1870.

² The Life-saving Service is under the control of a superintendent and an assistant. It is designed to assist vessels and seamen who are in danger of being shipwrecked on our coast.

first President to admit the chief clerk¹ of the Post-Office Department to a seat in his Cabinet. The head of this department is called the Postmaster-General. The business of this department is very great and extends over the entire country, and is carried on with regularity and safety. Through this department post-offices are established, post-routes selected, and contracts made for postal supplies and for carrying the mails. All postmasters whose salaries are less than \$1000 a year are appointed by the postmaster-general, all others by the President, by and with the consent of the senate. The subordinate officers are four assistant postmasters-general, an assistant attorney-general, a superintendent of the money-order department, a superintendent of foreign mails, a chief clerk, a law clerk, and a topographer. The first assistant postmaster-general has charge of salaries and allowances, free delivery, money orders, dead letters, and correspondence; the second assistant, of the transportation of mails, including contracts, inspection, railway adjustments and mail equipments, railway mail service, and foreign mails; the third assistant, of the finances of the department, including accounts and drafts, registered letters and classification of mail matter, postage stamps and stamped envelopes, and special delivery, and official files and indexes; the fourth assistant, of appointments, including bonds and commissions, appointment of post-office inspectors, depredations on the mails, and violations of the postal laws.²

The Navy Department. — By means of this department the President manages the naval affairs of the country. It superintends the purchase, building, and repair of vessels; has the care of all navy yards and docks; attends to the equipment of

¹ The "Chief Clerk," of course, is not now admitted to the Cabinet.

² A Postal Union was organized in 1874 by several of the leading nations. All nations that are members transmit the mail matter of such countries for the uniform rate of five cents for each half ounce.

vessels and crews, the clothing, subsistence, health and pay of officers and men; has charge of the Naval Academy at Annapolis, and of all scientific expeditions sent out by the government. There is an assistant secretary. The several bureaus of this department are: Yards and Docks, Equipment and Recruiting, Navigation, Ordnance, Medicine and Surgery, Bureau of Supplies and Accounts, Steam Engineering, Construction and Repairs.

The Department of the Interior. — This department was originally organized as the Home Department. The business is more miscellaneous than that of any other department. It is made up of various subordinate departments, as follows: 1. the Commissioner of Public Lands; 2. the Commissioner of Indian Affairs; 3. the Commissioner of Patents; 4. the Commissioner of Pensions; 5. the Commissioner of Education; 6. the Director of the Census.

The Department of Justice. — This department was originally provided for by act of Congress, September 4, 1789, and placed in charge of the Attorney-General. It was reorganized on the 22d of June, 1870. At the head of this department is the Attorney-General, who is the chief law officer of the government and represents the United States in all suits at law to which the United States is a party. When requested, he gives legal advice to the President, Congress, and heads of departments. He is assisted in his department by a solicitor-general, two assistant attorneys-general, and assistant attorney-general for the Interior Department, one for the Post-Office Department, a solicitor of the Treasury, a solicitor of the Internal Revenue, and an examiner of claims.

The Department of Agriculture. — The chief officer of this department is called Secretary. The business of this department, up to 1889, was entrusted, mostly, to the Interior

Department, but in that year a separate department was organized under the above name. This department collects and publishes information respecting the various branches of agriculture. It seeks to discover new and improved varieties of vegetable products, and distributes seeds over the country. The Weather Bureau¹ was transferred to this department in 1891 from the War Department.

The Commissioner of Education is at the head of the Bureau of Education organized in 1867. It gathers data showing the condition and progress of education in the several states and territories, and publishes the same. Its publications are of great value.

The Interstate Commerce Commission was organized under an act to regulate commerce passed in 1887. It consists of five commissioners appointed by the President and confirmed by the senate. The duty of this commission is to prohibit the discrimination of common carriers, as railroads and steamboat lines, of passengers or property, so that all persons using said common carriers may have equal facilities at an equal cost. Its jurisdiction only extends to such transportation lines as extend through two or more states and territories. All such lines extending into foreign states bordering on the United States are also subject to its control.

Cabinet Meetings.—The Cabinet meets on Tuesdays and Fridays and at such other times as the President directs. Its members are expected to advise with the President on all ques-

¹ The Weather Bureau was established in 1870. It has stations in different parts of the country for observing the meteorological conditions of the atmosphere, and to note the approach and character of storms. These data are then telegraphed to Washington where trained observers calculate the "weather probabilities" for different parts of the country, for the next twenty-four hours, and then send it over the country.

tions of importance connected with the management of their respective departments. They are directly responsible to him. The President defers, more or less, as he pleases, to the views of his Cabinet, but the Cabinet as such is not an official body and has no legal existence.

QUESTIONS

1. What is the chief prerogative of the President?
2. What is his relation to the military arm of government?
3. What power has he with reference to pardons and reprieves?
4. How are treaties made?
5. What is one of his most trying duties?
6. What officers does he appoint?
7. What is the "spoils system," and when and by whom was it originated?
8. What are some of the evils of this system?
9. What is the purpose of the Civil Service Act?
10. When was it originally passed, and what are some of its most important provisions?
11. To what class of agents are our relations with foreign governments entrusted?
12. What is the general character of their services?
13. Into how many grades are these agents divided?
14. What are some of the duties of consuls?
15. How are vacancies in appointive offices filled when the senate is not in session?
16. What is the purpose of the President's message, and when and to whom does he communicate it?
17. Among how many special departments is much of the President's work divided?
18. How are the heads of these departments chosen?
19. Name the executive departments in the order of their organization.
20. What is the President's Cabinet?
21. For what length of time are Cabinet officers appointed, and what is their salary?
22. Describe the Department of State.
23. Department of War.
24. Department of the Treasury.

25. The Post-Office Department.
26. The Navy Department.
27. The Department of the Interior.
28. The Department of Justice.
29. The Department of Agriculture.
30. What are Cabinet meetings? When are they held and for what purpose?
31. Does the Cabinet have legal existence?

CHAPTER XIV

THE RELATION OF THE STATE AND NATIONAL GOVERNMENTS

The Sphere of the National Government. — The National government is supreme in the exercise of those functions delegated to it by the Constitution. The people, not the states, are sovereign, and, in framing our National Constitution, they expressly set forth what sovereign functions should belong to the Nation, and what other functions should belong to their preëxisting state governments. As natural democrats they jealously reserved for the states all matters of local and state concern that most closely affected their individual affairs. The larger affairs that have a general and national interest they entrusted to the National government. The two forms supplement each other, and one is essential to the other, and they together make up one system of government. The state governments are part of the National government, and in the same way the National government is a part of the state governments. A citizen is, therefore, subject both to the jurisdiction of his state and of the National government, but he has many more points of contact with his state than with the Federal system. The two systems cover the same ground, yet they have distinct and separate machinery for carrying out distinct and separate functions. The National government receives its authority from the whole people of all the states, while the state governments exercise such authority as the people have reserved for them. The National government possesses such functions as are international in their relations. It therefore has the exclusive jurisdiction in questions concerning peace and war, commerce and navigation. In

domestic affairs, it has the care and disposal of the unoccupied territory of the United States; it coins money, maintains postal communication, and above all it has unlimited power of taxation for the purposes of the National government. It is the duty of the general government to guarantee to every state a republican form of government, to protect the states against invasion, and, in emergencies, against domestic violence. In its relation to the individual, it must protect its citizens at home when the appeal comes through legitimate channels; and abroad, when the conditions justify its interference.

The Sphere of the State Governments. — The functions left to the state governments to exercise are purely local, their object being to secure happiness to the citizen as a member of his local community, and to protect men from one another. In this way, public education, health, morals, the punishment of crime, the care of local industries and interests, become questions for the state. These, in turn, afford the citizen the opportunity to exercise his right of self-government, which democratic principle is so dear to the American heart, and the one characteristic feature of his heredity. This differentiation of functions and powers, so wisely thought out by "the fathers" of the Republic, has worked admirably in practice, and it is our duty as patriotic citizens to see that the state and National governments do not encroach one upon the other. The principle of decentralization is the very life element of the state governments. Modern civilization constantly tends toward centralization, and, if unchecked, will eventually absorb individual rights and personal liberty. The only obstacle to this tendency is to be found in these local units. Whenever either principle becomes absolute, our national life or our individual liberty, as the case may be, will become extinct. "To preserve both in their proper relation, is the care of American citizens, and the mission of American statesmen."

CHAPTER XV

THE ORIGIN AND ORGANIZATION OF POLITICAL PARTIES

ORIGIN OF POLITICAL PARTIES

Colonial Differences. — There were no political parties, in the modern sense, in any of the thirteen colonies prior to the Revolution. Differences of opinion concerning affairs existed, and these were the germinal roots out of which party spirit developed. The dominant principle among the colonists, as we have already learned, was that of local self-government, for the very plain reason that most of them had exiled themselves, and come to America to attain it, and to escape the tyranny of the highly centralized governments. They were, for the most part, extreme democrats, and especially jealous of what they conceived to be their personal rights. However, it must be remembered that there was also a government party, or, more properly, officials in many of the colonies who owed their positions to the crown, and who, on that account, were not in sympathy with their aggressive democratic fellow citizens who were vigorously striving indirectly to make all colonial officers elective. There were also a few natural aristocrats, especially in some of the southern colonies, who had an instinctive repugnance to all ideas of equality. Then, too, as wealth increased, it also logically tended to repress innovations and to make men conservative. The introduction of slaves, whereby the condition of the poor whites grew worse from day to day, helped to magnify the importance of the agricultural and commercial classes. These latter elements, by natural sequence, sustained the government party

at home and abroad. In this way an unconscious struggle of ideas began. The eighteenth century marks the introduction into political thought of the dogma, heretofore spurned, that governments exist for the good of the people, and not the people for the government. Christ taught the equality of man, the Reformation emphasized it, and the American nation is the fruitage. George III., in 1760, clinging to the old theory that the government was supreme and the people subordinate, immediately ran counter to the idea of the sovereign people which was now firmly intrenched in the virgin soil of America. The Tory party, the English conservatives, which, like the king, had not recognized the dawning enfranchisement of man, assumed the reins of government, and the progressive Whigs, who lived more in the present, were set aside. The latter, naturally, became the reactionary party, and thus unavoidably grew more liberal and more in harmony with the new tenet of government. When the aggressions of the crown fanned into flame the latent spirit of personal liberty and sovereignty, and the English Whigs joined the colonists in their efforts to preserve their rights, the gravitation of parties in America began. From this time on, until the Revolution and afterwards, the names Whig and Tory were the respective designations of two political classes in America. Those among the colonists whom we have for convenience characterized as the official and aristocratic classes, and who supported the various obnoxious measures of the crown, were called Tories, while all those who were resisting such tyranny were collectively known as Whigs. We have reason to believe that this quasi party spirit ran high, for we find that the youthful Madison and his patriotic contemporaries were proud to be so classed. When James Madison was a student in Princeton College, he was one of the founders, in 1766, of a literary society, still in existence, which the young patriot named the "American Whig" society. This fact is clear proof that

Whig was a popular appellation ten years before the Declaration of Independence.

In the congressional debates over the Articles of Confederation, in so far as any information can be gained, the principles of centralization and decentralization were clearly recognized. That is to say, the people, while forming a union, jealously guarded the rights of the states. The Constitution of 1787, our present Constitution, as we know, while forming a National government with sufficient sovereign powers, nevertheless reserves to the individual states their local rights. But several of its most important provisions are compromises, and where they exist, parties also exist. While the ratification of the Constitution was being discussed, its friends, the party favoring larger centralization, began to be called Federalists, and the "states' rights" party were called Anti-Federalists.

Modern Parties. — After the Constitution was adopted and the government organized, its meaning and interpretation became the party issue. The Federalists instinctively gave a broad or "loose" construction to doubtful clauses, thus still further extending the jurisdiction of the general government, and thereby lessening the influence and sovereignty of the states. Those who were known formerly as Anti-Federalists, became, on the other hand, strict "constructionists, and insisted on a literal interpretation of the language of the Constitution, so as to reserve for the states all such powers as had not been expressly delegated. They, however, were now known as Democratic-Republicans, but were called for short Republicans. Jefferson was the representative Republican of his time, just as Hamilton was the leader of the extreme Federalists. Federalist principles controlled the government during the administrations of Washington and John Adams. The war between England and France involved our country, during the early administration, in trouble with both countries,

and this European quarrel, for a time, was the real division line between the parties. The Federalists, generally, sympathized with England, and the Republicans with France. As the former party was almost supreme in the North, and the latter in the South, geographical lines defined party jurisdiction. The passage of the Alien and Sedition Laws, during John Adams' term, made the Federalists so unpopular that Thomas Jefferson, the leader of the Republicans, was chosen President in 1801. These laws were the greatest stretch of power that had been ventured upon since the Revolution, and they led to the formulation by Jefferson and Madison, respectively, of the famous Kentucky and Virginia resolutions of 1798-1799, in which was enunciated the strict construction theory that the Constitution was a compact between the states. The final blow was given to the Federal party by its unpatriotic policy during the war of 1812. During the war, the Federalists of New England, chagrined doubtless at the threatened disintegration of the party, and influenced somewhat by the injury the war was bringing upon their commercial interests, now appear as strict constructionists. They at this time more than equalled the zeal of Kentucky and Virginia in 1798-1799, in claiming for the states almost sovereign rights. Delegates from Massachusetts, Rhode Island, New Hampshire, Connecticut, Vermont, met in secret convention at Hartford in 1814, just at a time when the country was passing through the darkest period of the war, and partly on account of the ambiguous language used, the impression, justly or not, got abroad that New England was seeking to dissolve the Union. Fortunately the war was soon after happily ended, and little more is heard of this heresy in that section. The close of the war marks, however, the extinction of the Federal party. From that time until the election of John Quincy Adams, in 1825, there were no distinctly party contests.

Whigs and Democrats. — John Quincy Adams' election by the House of Representatives over Andrew Jackson, the popular candidate, embittered Jackson and his followers, and two factions arose in the Republican party — the friends of Adams and the friends of Jackson. The Adams faction called themselves National Republicans, and the "Jackson men" very soon after assumed the name of Democrats, a name they have uniformly held ever since. They assumed the strict construction principles of the Republicans. About 1832, the National Republicans, led by John Quincy Adams and Henry Clay, changed the name to that of Whigs. This party maintained the loose constructionist principles of the Federalists and, in addition, desired a protective tariff and a system of public improvements at the national expense.

A party, known as the Anti-Masonic, acquired some influence in 1829, but it was short-lived. In 1833, the National Anti-Slavery Society was formed, out of which grew the Abolition party. The slavery question from now on began to darken the political horizon, but both the Whigs and the Democrats sought to avoid it as a direct issue.

The Republican Party. — The election of Franklin Pierce, the Democratic candidate, in 1852, marks the final extinction of the Whig party: it also is the time when slavery becomes the all-absorbing question and it can no longer be kept out of politics. By this time, the Democratic party, perforce, had become to all intents and purposes, the slavery party, although many of its ablest statesmen, especially in the North, were hostile to it. In 1852, a secret political party that took the name American, but which was popularly known as the "Know-Nothing" party, came into being. It was an oath-bound organization. Its members were called Know-Nothings because, when asked concerning their party, they always replied that they knew nothing about it. Its object was to oppose the easy

naturalization of foreigners. It nominated a presidential candidate in 1856, by which time it had become divided on the slavery question. In 1856, the present Republican party came into being, and it soon enrolled among its members all those who, under different ephemeral names, opposed further concessions to slavery. It was a loose construction party, favored a protective tariff and internal improvements, and it was therefore the logical successor of the Whigs, just as that party had been of the Federalists.

We have now traced to the present time the two historic party questions — strict, and loose, construction of the constitution, and have identified them with their respective political organizations.

No attempt will be made to describe the minor parties nor the various incidental and accidental principles of their platforms.

ORGANIZATION OF POLITICAL PARTIES

Function of Political Parties. — Political parties are voluntary organizations whereby the citizen in his capacity as an elector is enabled to exercise more efficiently his constitutional right to vote. By means of these organizations questions, affecting state or National politics, are intelligently and persistently formulated and kept before the citizen, thus affording him an opportunity to study them. The great newspapers are the great media through which this knowledge reaches the people. The press is — on this account alone — an invaluable auxiliary to a popular form of government. It has made our people a nation of readers. Many of the newspapers have party affiliations and are of great service to the party. National politics finds its expression in the halls of Congress and in the doings of the Executive. Sometimes both the Executive and a majority of Congress are of the same political party; under such circumstances, the management of public

affairs practically becomes the privilege of one of the great parties, and the public is quick to place the responsibility in case its leaders at the head of the government prove incompetent. At the next election, the people can record their disapproval by supporting the candidate of the opposite party. The most important questions in modern politics are those relating to finance, trusts, labor and capital, tariff, commerce, and imperialism. The historic differences relating to constitutional prerogative have become incidental to those named. This shifting of party discussion would seem to indicate that the terms of the constitution are pretty well settled and that the fundamental principles of the government are acquiesced in by our people. New political issues arise from time to time, which divide the people. National issues become state issues, and in this way the party in power in the nation controls the local affairs of all such states as are in political harmony with the National administration. That is to say, a complete party victory to a voter in a general election at which a President, as well as county and state officers is chosen, would mean that his party, through the officers-elect, would control, for a term of years, National, state, and county affairs. On the other hand, if the victory was only partial, he might find himself subject in local and state affairs to officers for whom he had not voted. This frequently happens, and it is his duty as a good citizen to cheerfully acquiesce and to support the officers chosen.

Party Machinery. — *The Primary.* While we had National politics before we had distinctively state politics, still the foundation of party machinery is the town primary. The primary belongs directly to the county political organization; and all the parties have practically the same system. Some weeks prior to holding the county convention for the nomination of candidates of a party, the county chairman announces,

through the newspapers of his party, the date and place of the county convention, the various offices to be filled, and the places for holding the township (and city) primaries, and the number of delegates to which such local units are entitled. He also fixes the hours for this primary election. When the time arrives, the voters of that party assembled organize an election board, and proceed to elect delegates. The delegates thus elected represent the political party of their township in the convention, which nominates the party's candidates for county offices; selects delegates to the state convention; names the county standing committee (usually one person from each township); usually elects the county chairman for the year, and frames such party rules as may be necessary.

The State Convention. — The State Convention, consisting of the delegates chosen at the various county conventions, is called by the state chairman. By means of this convention, candidates for the state offices are nominated, a platform adopted, state committeemen¹ chosen, provision made for the election of a state chairman, and if it be the year of a presidential election, delegates² are chosen to the National convention and an electoral ticket named.

The National Convention. — Presidential nominations by means of National conventions were made in 1832 for the first time by all the political parties. The usual method before this time was by Congressional caucuses, although it was sometimes done by state legislatures as in 1828. The delegates are chosen at the state conventions, and they meet in National convention at a time and place fixed by the National chairman and committeemen. Candidates for President and Vice-President are nominated; a National chairman chosen; National

¹ One from each county or assembly district.

² Each congressional district is given two, and two each are chosen for the senators and congressmen-at-large.

committeemen (one from each state) named; and a platform of party principles framed. The foregoing is a brief outline of party organization, and, while general in its nature, it will enable the student to comprehend all necessary essentials. Parties are necessary in a popular government, although no man should submit to party tyranny or permit partisan zeal to overshadow his patriotism.

The Caucus.—It is customary in state legislatures and in Congress for the adherents of the respective parties to assemble, usually in secret meeting, to decide upon the policy of the party regarding certain important matters in order to secure concerted action. Such meetings are called caucuses, and the name is now sometimes applied to any secret meeting of persons having common interests. The caucus is the most efficient means of “whipping” weak members into line and of securing an expression of opinion. A legislator, going into a caucus,¹ surrenders his individual preference to that of the majority and is expected afterwards to vote and act as the caucus by a majority vote decides.

QUESTIONS

1. In what particular is the National government supreme?
2. What matters does the Constitution reserve to the states?
3. What affairs are entrusted to the National government?
4. From whom does the National government receive its authority?
5. What is the sphere of the State governments?
6. What economic and political questions divided the colonists?
7. Name the two great political parties in England in 1760.
8. Why were these political names adopted by the colonists?
9. What classes of colonists became tories?
10. What classes became whigs?
11. What two political principles did these parties represent?
12. What party names came into use with the adoption of the Constitution?

¹ The meeting need not be secret and often is not.

13. What were their respective principles?
14. What was the principle of "loose" construction?
15. What was the principle of "strict" construction?
16. What party name did the strict constructionists adopt?
17. What was the Hartford Convention?
18. Describe the origin of the Whig and Democratic parties, respectively.
19. When was the National Anti-Slavery Society formed?
20. What great question now began to darken the political horizon?
21. When did the Republican party originate? What were its principles?
22. What were the principles of the Democratic party?
23. Who were the "Know-Nothings"?
24. What is the function of political parties?
25. What are some of the most important modern political questions?
26. Describe the primary.
27. The state convention.
28. The National convention.
29. How were presidential nominations made prior to 1832?
30. Describe the caucus.

APPENDIX A.

THE DECLARATION OF INDEPENDENCE.¹

IN CONGRESS, JULY 4, 1776.

THE UNANIMOUS DECLARATION OF THE THIRTEEN UNITED STATES OF AMERICA.

WHEN in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the Powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object

¹ The original copy of the Declaration of Independence, which was signed at Philadelphia, is kept at the Department of State, Washington, District of Columbia. The writing is much faded, and some of the signatures have nearly disappeared.

The arrangement of paragraphs here adopted follows the copy in the Journals of Congress, printed by John Dunlap, which agrees with Jefferson's original draft. No names of states appear in the original, though the names from each state are together, except that the signature of Matthew Thornton, New Hampshire, follows that of Oliver Wolcott, Massachusetts.

evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security. — Such has been the patient sufferance of these Colonies ; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

He has refused his Assent to Laws, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained ; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their Public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected ; whereby the Legislative Powers, incapable of Annihilation, have returned to the People at large for their exercise ; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these States ; for that purpose obstructing the Laws for Naturalization of Foreigners ; refusing to pass others to encourage their migration hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary Powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of New Offices, and sent hither swarms of Officers to harrass our People, and eat out their substance.

He has kept among us, in times of peace, Standing Armies without the Consent of our legislature.

He has affected to render the Military independent of and superior to the Civil Power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock Trial, from Punishment for any Murders which they should commit on the Inhabitants of these States:

For cutting off our Trade with all parts of the world:

For imposing taxes on us without our Consent:

For depriving us in many cases, of the benefits of Trial by Jury:

For transporting us beyond Seas to be tried for pretended offences:

For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:

For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:

For suspending our own Legislatures, and declaring themselves invested with Power to legislate for us in all cases whatsoever.

He has abdicated Government here, by declaring us out of his Protection and waging War against us.

He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large armies of foreign mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free People.

Nor have We been wanting in attention to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of

our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the Protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

JOHN HANCOCK.

NEW HAMPSHIRE.

JOSIAH BARTLETT,
WM. WHIPPLE,
MATTHEW THORNTON.

MASSACHUSETTS BAY.

SAML. ADAMS,
JOHN ADAMS,
ROBT. TREAT PAINE,
ELBRIDGE GERRY.

RHODE ISLAND.

STEP. HOPKINS,
WILLIAM ELLERY.

CONNECTICUT.

ROGER SHERMAN,
SAM'L HUNTINGTON,
WM. WILLIAMS,
OLIVER WOLCOTT.

NEW YORK.

WM. FLOYD,
PHIL. LIVINGSTON,
FRANS. LEWIS,
LEWIS MORRIS.

NEW JERSEY.

RICH'D. STOCKTON,
JNO. WITHERSPOON,
FRAS. HOPKINSON,
JOHN HART,
ABRA. CLARK.

PENNSYLVANIA.

ROBT. MORRIS,
BENJAMIN RUSH,
BENJA. FRANKLIN,
JOHN MORTON,
GEO CLYMER,
JAS. SMITH,
GEO. TAYLOR,
JAMES WILSON,
GEO. ROSS.

DELAWARE.

CÆSAR RODNEY,
GEO. READ,
THO. M'KEAN.

MARYLAND.

SAMUEL CHASE,
WM. PACA,

THOS. STONE,
CHARLES CARROLL of Carroll-
ton.

VIRGINIA.

GEORGE WYTHE,
RICHARD HENRY LEE,
TH. JEFFERSON,
BENJA. HARRISON,
THOS. NELSON, jr.,
FRANCIS LIGHTFOOT LEE,
CARTER BRAXTON.

NORTH CAROLINA.

WM. HOOPER,
JOSEPH HEWES,
JOHN PENN.

SOUTH CAROLINA.

EDWARD RUTLEDGE,
THOS. HEYWARD, JUNR.,
THOMAS LYNCH, JUNR.,
ARTHUR MIDDLETON.

GEORGIA.

BUTTON GWINNETT,
LYMAN HALL,
GEO. WALTON.

APPENDIX B.

ARTICLES OF CONFEDERATION — 1777.

To all to whom these Presents shall come, we the undersigned Delegates of the States affixed to our Names, send greeting.

WHEREAS the Delegates of the United States of America in Congress assembled did on the fifteenth day of November in the Year of our Lord One Thousand Seven Hundred and Seventy-seven, and in the Second Year of the Independence of America agree to certain articles of Confederation and perpetual Union between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia in the words following, viz.

“ Articles of Confederation and Perpetual Union between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia.

ARTICLE I. The style of this confederacy shall be “ The United States of America.”

ARTICLE II. Each State retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled.

ARTICLE III. The said States hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

ARTICLE IV. The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds and fugitives from justice excepted, shall be entitled to all privileges and immunities of free

citizens in the several States; and the people of each State shall have free ingress and regress to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions and restrictions as the inhabitants thereof respectively, provided that such restrictions shall not extend so far as to prevent the removal of property imported into any State, to any other State of which the owner is an inhabitant; provided also that no imposition, duties or restriction shall be laid by any State on the property of the United States, or either of them.

If any person guilty of, or charged with treason, felony, or other high misdemeanor in any State, shall flee from justice, and be found in any of the United States, he shall upon demand of the Governor or Executive power, of the State from which he fled, be delivered up and removed to the State having jurisdiction of his offence.

Full faith and credit shall be given in each of these States to the records, acts and judicial proceedings of the courts and magistrates of every other State.

ARTICLE V. For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislature of each State shall direct, to meet in Congress on the first Monday in November, in every year, with a power reserved to each State, to recall its delegates, or any of them, at any time within the year, and to send others in their stead, for the remainder of the year.

No State shall be represented in Congress by less than two, nor by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit receives any salary, fees or emolument of any kind.

Each State shall maintain its own delegates in a meeting of the States, and while they act as members of the committee of the States.

In determining questions in the United States, in Congress assembled, each State shall have one vote.

Freedom of speech and debate in Congress shall not be impeached or questioned in any court, or place out of Congress, and the members of Congress shall be protected in their persons from arrests and imprisonments, during the time of their going to and from, and attendance on Congress, except for treason, felony, or breach of the peace.

ARTICLE VI. No State without the consent of the United States in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance or treaty with any king, prince or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office or title of any kind whatever from any king, prince or foreign state; nor shall

the United States in Congress assembled, or any of them, grant any title of nobility.

No two or more States shall enter into any treaty, confederation or alliance whatever between them, without the consent of the United States in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No State shall lay any imposts or duties, which may interfere with any stipulations in treaties, entered into by the United States in Congress assembled, with any king, prince or state, in pursuance of any treaties already proposed by Congress, to the courts of France and Spain.

No vessels of war shall be kept up in time of peace by any State, except such number only, as shall be deemed necessary by the United States in Congress assembled, for the defence of such State, or its trade; nor shall any body of forces be kept up by any State, in time of peace, except such number only, as in the judgment of the United States, in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such State; but every State shall always keep up a well regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and constantly have ready for use, in public stores, a due number of field pieces and tents, and a proper quantity of arms, ammunition and camp equipage.

No State shall engage in any war without the consent of the United States in Congress assembled, unless such State be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such State, and the danger is so imminent as not to admit of a delay, till the United States in Congress assembled can be consulted: nor shall any state grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in Congress assembled, and then only against the kingdom or state and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States in Congress assembled, unless such State be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States in Congress assembled shall determine otherwise.

ARTICLE VII. When land-forces are raised by any State for the common defence, all officers of or under the rank or colonel, shall be appointed by the Legislature of each State respectively by whom such forces shall be raised, or in such manner as such State shall direct, and all vacancies shall be filled up by the State which first made the appointment.

ARTICLE VIII. All charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common

treasury, which shall be supplied by the several States, in proportion to the value of all land within each State, granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated according to such mode as the United States in Congress assembled, shall from time to time direct and appoint.

The taxes for paying that proportion shall be laid and levied by the authority and direction of the Legislatures of the several States within the time agreed upon by the United States in Congress assembled.

ARTICLE IX. The United States in Congress assembled, shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article—of sending and receiving ambassadors—entering into treaties and alliances, provided that no treaty of commerce shall be made whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners, as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever—of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated—of granting letters of marque and reprisal in times of peace—appointing courts for the trial of piracies and felonies committed on the high seas and establishing courts for receiving and determining finally appeals in all cases of captures, provided that no member of Congress shall be appointed a judge of any of the said courts.

The United States in Congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more States concerning boundary, jurisdiction or any other cause whatever; which authority shall always be exercised in the manner following. Whenever the legislative or executive authority or lawful agent of any State in controversy with another shall present a petition to Congress, stating the matter in question and praying for a hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other State in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question: but if they cannot agree, Congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven, nor more than nine names as Congress shall direct, shall in the presence of Congress be drawn out by lot, and the persons whose names shall be so drawn or any five of them, shall be com-

missioners or judges, to hear and finally determine the controversy, so always as a major part of the judges who shall hear the cause shall agree in the determination : and if either party shall neglect to attend at the day appointed, without showing reasons, which Congress shall judge sufficient, or being present shall refuse to strike, the Congress shall proceed to nominate three persons out of each State, and the Secretary of Congress shall strike in behalf of such party absent or refusing ; and the judgment and sentence of the court to be appointed, in the manner before prescribed, shall be final and conclusive ; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence, or judgment, which shall in like manner be final and decisive, the judgment or sentence and other proceedings being in either case transmitted to Congress, and lodged among the acts of Congress for the security of the parties concerned : provided that every commissioner, before he sits in judgment, shall take an oath to be administered by one of the judges of the supreme or superior court of the State where the cause shall be tried, “ well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection or hope of reward : ” provided also that no State shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil claimed under different grants of two or more States, whose jurisdiction as they may respect such lands, and the States which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall on the petition of either party to the Congress of the United States, be finally determined as near as may be in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different States.

The United States in Congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective States — fixing the standard of weights and measures throughout the United States — regulating the trade and managing all affairs with the Indians, not members of any of the States, provided that the legislative right of any State within its own limits be not infringed or violated — establishing and regulating post-offices from one State to another, throughout all the United States, and exacting such postage on the papers passing thro' the same as may be requisite to defray the expenses of the said office — appointing all officers of the land forces, in the service of the United States, excepting regimental officers — appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States — making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States in Congress assembled shall have authority to appoint a committee, to sit in the recess of Congress, to be denominated "a Committee of the States," and to consist of one delegate from each State; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction—to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses—to borrow money, or emit bills on the credit of the United States, transmitting every half year to the respective States an account of the sums of money so borrowed or emitted,—to build and equip a navy—to agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white inhabitants in each State; which requisition shall be binding, and thereupon the Legislature of each State shall appoint the regimental officers, raise the men and clothe, arm and equip them in a soldier-like manner, at the expense of the United States; and the officers and men so clothed, armed and equipped shall march to the place appointed, and within the time agreed on by the United States in Congress assembled: but if the United States in Congress assembled shall, on consideration of circumstances judge proper that any State should not raise men, or should raise a smaller number than its quota, and that any other State should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed and equipped in the same manner as the quota of such State, unless the Legislature of such State shall judge that such extra number cannot be safely spared out of the same, in which case they shall raise, officer, clothe, arm and equip as many of such extra number as they judge can be safely spared; and the officers and men so clothed, armed and equipped, shall march to the place appointed, and within the time agreed on by the United States in Congress assembled.

The United States in Congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defence and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war, to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander in chief of the army or navy, unless nine States assent to the same: nor shall a question on any other point, except for adjourning from day to day be determined, unless by the votes of a majority of the United States in Congress assembled.

The Congress of the United States shall have power to adjourn to any time

within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances or military operations, as in their judgment require secrecy ; and the yeas and nays of the delegates of each State on any question shall be entered on the journal, when it is desired by any delegate ; and the delegates of a State, or any of them, at his or their request shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the Legislatures of the several States.

ARTICLE X. The committee of the States, or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States in Congress assembled, by the consent of nine States, shall from time to time think expedient to vest them with ; provided that no power be delegated to the said committee, for the exercise of which, by the articles of confederation, the voice of nine States in the Congress of the United States assembled is requisite.

ARTICLE XI. Canada acceding to this confederation, and joining in the measures of the United States, shall be admitted into, and entitled to all the advantages of this Union : but no other colony shall be admitted into the same unless such admission be agreed to by nine States.

ARTICLE XII. All bills of credit emitted, monies borrowed and debts contracted by, or under the authority of Congress, before the assembling of the United States, in pursuance of the present confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States, and the public faith are hereby solemnly pledged.

ARTICLE XIII. Every State shall abide by the determinations of the United States in Congress assembled, on all questions which by this confederation are submitted to them. And the articles of this confederation shall be inviolably observed by every State, and the Union shall be perpetual ; nor shall any alteration at any time hereafter be made in any of them ; unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the Legislatures of every State.

And whereas it has pleased the Great Governor of the world to incline the hearts of the Legislatures we respectively represent in Congress, to approve of, and to authorize us to ratify the said articles of confederation and perpetual union. Know ye that we the undersigned delegates, by virtue of the power and authority to us given for that purpose, do by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained : and we do further solemnly plight and engage the faith of our respective constituents

that they shall abide by the determinations of the United States in Congress assembled, on all questions, which by the said confederation are submitted to them. And that the articles thereof shall be inviolably observed by the States we respectively represent, and that the Union shall be perpetual.

In witness whereof we have hereunto set our hands in Congress. Done at Philadelphia in the State of Pennsylvania the ninth day of July in the year of our Lord one thousand seven hundred and seventy-eight, and in the third year of the independence of America.

APPENDIX C.

[THE CONSTITUTION OF THE UNITED STATES OF AMERICA.]¹

WE THE PEOPLE of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this CONSTITUTION for the United States of America.

ARTICLE. I.

SECTION. 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION. 2. [1] The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

[2] No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

[3] Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers,² [which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of

¹ This text of the Constitution has been printed from the copy issued by the United States Department of State which bears the indorsement, "Compared with the original in the Department of State, April 13, 1891, and found to be correct." Those parts of the document in brackets [] are not in the original, or have been modified or superseded by amendments, or were temporary in their character.

² The apportionment under the census of 1900 is one representative to every 193,291.

Years, and excluding Indians not taxed, three fifths of all other Persons].¹ The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative ; [and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.]

[4] When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

[5] The House of Representatives shall chuse their Speaker² and other Officers ; and shall have the sole Power of Impeachment.

SECTION. 3. [1] The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years ; and each Senator shall have one Vote.

[2] Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year ; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

[3] No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

[4] The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

[5] The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

[6] The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside : And

¹ The clause in brackets has been superseded by the thirteenth and fourteenth amendments.

² The Speaker is always one of the representatives ; the other officers are not.

no Person shall be convicted without the Concurrence of two thirds of the Members present.

[7] Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

SECTION. 4. [1] The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

[2] The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

SECTION. 5. [1] Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

[2] Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

[3] Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

[4] Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

SECTION. 6. [1] The Senators and Representatives shall receive a Compensation¹ for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

[2] No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United

¹ At present (1938) this is "\$ 5000 per annum, with \$ 125 annual allowance for stationery and newspapers, and a mileage allowance of twenty cents per mile of travel each way from their homes at each annual session."

States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

SECTION. 7. [1] All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

[2] Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

[3] Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

SECTION. 8. [1] The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

[2] To borrow Money on the credit of the United States;

[3] To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

[4] To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

[5] To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

[6] To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

[7] To establish Post Offices and post Roads ✓

[8] To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries ;

[9] To constitute Tribunals inferior to the supreme Court ;

[10] To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations ;

[11] To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water ;

[12] To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years ;

[13] To provide and maintain a Navy ;

[14] To make Rules for the Government and Regulation of the land and naval Forces ;

[15] To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions ;

[16] To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress ;

[17] To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings ; — And

X [18] To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

SECTION. 9. [1] [The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.] ¹

[2] The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

[3] No Bill of Attainder or ex post facto Law shall be passed.

¹ A temporary clause no longer in force.

[4] No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

[5] No Tax or Duty shall be laid on Articles exported from any State.

[6] No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another. -

[7] No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time. ' .

[8] No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.¹

SECTION. 10. [1] No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

X [2] No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

[3] No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.²

ARTICLE. II.

SECTION. 1. [1] The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

[2] Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators

¹ The personal rights enumerated in Section 9, have been added to, and extended by, Amendments I.-X.

² The provisions of Section 10 have been modified and extended by Amendments XIII.-XV.

and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

[3] [The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.]¹

[4] The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

[5] No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

[6] In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

¹ This clause has been superseded by Amendment XII.

[7] The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

[8] Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation : — “I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States.”

SECTION. 2. [1] The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States ; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

[2] He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur ; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law : but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

[3] The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

SECTION. 3. [1] He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient ; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper ; he shall receive Ambassadors and other public Ministers ; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

SECTION. 4. [1] The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

ARTICLE. III.

SECTION. 1. [1] The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their continuance in Office.

SECTION. 2. [1] The judicial Power shall extend to all cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority ; — to all Cases affecting Ambassadors, other public Ministers and Consuls ; — to all Cases of admiralty and maritime Jurisdiction ; — to Controversies to which the United States shall be a Party ; — to Controversies between two or more States ; — between a State and Citizens of another State ;¹ between Citizens of different States, — between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

[2] In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such regulations as the Congress shall make.

[3] The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury ; and such Trial shall be held in the State where the said Crimes shall have been committed ; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

SECTION. 3. [1] Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

[2] The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

ARTICLE. IV.

SECTION. 1. [1] Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And

¹ Modified by Amendment XI.

the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

SECTION. 2. [1] The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.¹

[2] A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime..

[3] [No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.]²

SECTION. 3. [1] New States may be admitted by the Congress into this Union ; but no new State shall be formed or erected within the Jurisdiction of any other State ; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

[2] The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States ; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

SECTION. 4. [1] The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion ; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

ARTICLE. V.

[1] The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress ; Provided that [no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article ; and that]³ no State, without its Consent, shall be deprived of it's equal Suffrage in the Senate.

¹ Provisions extended by Amendment XIV.

² Superseded by Amendment XIII.

³ Temporary in its nature.

ARTICLE. VI.

[1] All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

[2] This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

[3] The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

ARTICLE. VII.

[1] The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

The Word, "the", being interlined between the seventh and eighth Lines of the first Page, The Word "Thirty" being partly written on an Erasure in the fifteenth Line of the first Page, The Words "is tried" being interlined between the thirty second and thirty third Lines of the first Page and the Word "the" being interlined between the forty third and forty fourth Lines of the second Page.

[NOTE BY PRINTER. — The interlined and rewritten words, mentioned in the above explanation, are in this edition, printed in their proper places in the text.]

DONE in Convention by the Unanimous Consent
of the States present the Seventeenth Day of
September in the Year of our Lord one thousand
seven hundred and Eighty seven and of the
Independance of the United States of America
the Twelfth In Witness whereof We have
hereunto subscribed our Names,

GO: WASHINGTON — *Presidt.*
and deputy from Virginia

Attest WILLIAM JACKSON *Secretary*

ARTICLES

IN

ADDITION TO, AND AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA, PROPOSED BY CONGRESS AND RATIFIED BY THE LEGISLATURES OF THE SEVERAL STATES, PURSUANT TO THE FIFTH ARTICLE OF THE CONSTITUTION.

[ARTICLE I.]

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof ; or abridging the freedom of speech, or of the press ; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

[ARTICLE II.]

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

[ARTICLE III.]

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

[ARTICLE IV.]

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

[ARTICLE V.]

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in

cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any Criminal Case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

[ARTICLE VI.]

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining Witnesses in his favor, and to have the Assistance of Counsel for his defence.

[ARTICLE VII.]

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

[ARTICLE VIII.]

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

[ARTICLE IX.]

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

[ARTICLE X.]¹

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

[ARTICLE XI.]²

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

¹ Amendments I.-X. were proclaimed to be in force December 15, 1791.

² Proclaimed to be in force January 8, 1798.

[ARTICLE XII.]¹

The Electors shall meet in their respective states, and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same state with themselves ; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate ; — The President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted ; — The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed ; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote ; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President ; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

[ARTICLE XIII.]²

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

¹ Proclaimed to be in force September 25, 1804.

² Proclaimed to be in force December 18, 1865.

[ARTICLE XIV.]¹

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SECTION 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SECTION 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss of emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

¹ Proclaimed to be in force July 28, 1868.

[ARTICLE XV.]¹

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

¹ Proclaimed to be in force March 30, 1870.

APPENDIX D.

QUALIFICATIONS FOR VOTING IN EACH STATE OF THE UNION, 1900.

In Colorado, Idaho, Utah, and Wyoming women have full suffrage and vote for all officers, including Presidential electors. The woman-suffrage law was adopted in Wyoming in 1870, and in Colorado in 1893, and woman suffrage is a constitutional provision in Utah and Wyoming.

STATES.	REQUIREMENTS AS TO CITIZENSHIP.	Previous Residence Required.				PERSONS EXCLUDED FROM SUFFRAGE.
		In State.	In County.	In Town.	In Precinct.	
Alabama *	Citizen of the United States or alien who has declared intention.	1 yr.	3 mos.	30 dys.	30 dys.	Convicted of treason or other crime punishable by imprisonment, idiots, or insane.
Arkansas *	Citizen of the United States or alien who has declared intention.	1 yr.	6 mos.	30 dys.	30 dys.	Idiots, insane, convicted of felony, until pardoned, failure to pay poll-tax.
California *	Citizen by nativity, naturalization, or treaty of Queretaro.	1 yr.	90 dys.		30 dys.	Chinese, insane, embezzlers of public moneys, convicted of infamous crime.
Colorado *	Citizen or alien who has declared intention.	6 mos.	90 dys.		10 dys.	Under guardianship, insane, idiots, or imprisoned.
Conn.*	Citizen of the United States who can read English.	1 yr.		6 mos.		Convicted of felony or theft, unless pardoned.

* Australian ballot law or a modification of it in force. † Indian must have severed tribal relations two years next preceding election. ‡ Or, if, having previously been a qualified elector or native, he shall have removed and returned, then six months. § One year's residence in the United States prior to election required. (a) And females, in school and city elections. (b) Clergymen are qualified after six months' residence in precinct. (c) Actual residence in the precinct or district required. (d) Three months' residence in the town is required to vote for town representative and justices. (e) Women can vote in school elections.

STATES.	REQUIREMENTS AS TO CITIZENSHIP.	Previous Residence Required.				PERSONS EXCLUDED FROM SUFFRAGE.
		In State.	In County.	In Town.	In Precinct.	
Delaware *	Citizen and paying county tax after age 22.	1 yr.	3 mos.		30 dys.	Idiots, insane, paupers, felons.
Florida	Citizen of the United States or alien who has declared intention and paid capitation tax 2 years.	1 yr.	6 mos.	6 mos.	30(a) "	Insane, under guardianship, convicted of felony, or any infamous crime, duelist.
Georgia	Citizen of the United States who has paid all his taxes since 1877.	1 yr.	6 mos.			Idiots, insane, convicted of crime punishable by imprisonment, until pardoned.
Idaho *	Citizen of the United States.	6 mos.	30 dys.	3 mos.	10(a) "	Under guardianship, idiots, insane, convicted of felony, treason, or embezzlement of public funds, bigamist, polygamist.
Illinois *	Citizen of the United States (e).	1 yr.	90 dys.	30 dys.	30 dys.	Convicted of felony, unless pardoned.
Indiana *	Citizen of the United States or alien who has declared intention and resided 1 year in United States and 6 months in State.	6 mos.	60 dys.	60 dys.	30 dys.	Convicted of crime and disfranchised by judgment of the court, soldiers and sailors.
Iowa *	Citizen of the United States.	6 mos.	60 dys.	10 dys.	10 dys.	Idiots, insane, convicted of infamous crime.
Kansas *	Citizen of the United States or alien who has declared intention (a).	6 mos.	30 dys.	30 dys.	30 dys.	Felons, insane, duelists, under guardianship, public embezzlers, offering or accepting a bribe.
Kentucky *	Citizen of the United States.	1 yr.	6 mos.	60 dys.	60 dys.	Treason, felony, bribery at election.
Louisiana *	Citizen of the United States or alien who has declared intention.	2 yrs.	1 yr.		6 mos.	Idiots, insane, convicted of treason, embezzlement of public funds, all crime punishable by imprisonment in penitentiary.

STATES.	REQUIREMENTS AS TO CITIZENSHIP.	Previous Residence Required.				PERSONS EXCLUDED FROM SUFFRAGE.
		In State.	In County.	In Town.	In Precinct.	
Maine *	Citizen of the United States.	3 mos.	3 mos.	3 mos.	3 mos.	Paupers, persons under guardianship, Indians not taxed, and in 1893 all new voters who cannot read the Constitution or write their own names in English.
Maryland *	Citizen of the United States.	1 yr.	6 mos.	6 mos.	1 dy.	Convicted of larceny or other infamous crime, unless pardoned, persons convicted of bribery.
Mass.*	Citizen who can read Constitution in English and write his name.	1 yr.	6 mos.	6 mos.	6 mos.	Paupers and persons under guardianship.
Michigan *	Citizen or inhabitant who has declared intention under United States laws prior to May 8, 1892.	6 mos.	20 dys.	20 dys.	20 dys.	Indians, duelists and accessories.
Minn'sota *	Citizen of the United States or alien who has declared intention, and civilized Indians.	6 mos.	30 dys.	30 dys.	30 dys.	Convicted of treason or felony, unless pardoned, persons under guardianship or insane, Indians untaxed.
Miss.*	Citizen of the United States who can read or understand Constitution, after Jan. 1, 1892.	2 yrs.	1 yr.	1 yr.	1 yr.(b)	Idiots, insane, Indians not taxed, felons, persons who have not paid taxes, bigamist.
Missouri *	Citizen of the United States or alien who has declared intention not less than one year or more than five before offering to vote.	1 yr.	60 dys.	60 dys.	60 dys.	United States soldiers and marines, paupers, criminals convicted once until pardoned, felons and violators of suffrage laws convicted a second time.
Montana *	Citizen of the United States.	1 yr.	30 dys.	30 dys.	30 dys.	All persons not citizens, idiots, soldiers, marines.
Nebraska *	Citizen of the United States or alien who has declared intention (e).	6 mos.	40 dys.	10 dys.	10 dys.	Convicts, insane.

STATES.	REQUIREMENTS AS TO CITIZENSHIP.	Previous Residence Required.				PERSONS EXCLUDED FROM SUFFRAGE.
		In State.	In County.	In Town.	In Precinct.	
Nevada *	Citizen of the United States.	6 mos.	30 dys.	30 dys.	30 dys.	Idiots, insane, unpardoned convicts, Indians, Chinese.
N. Hamp.*	Inhabitants, native, or naturalized.	6 mos.	6 mos.	6 mos.	6 mos.	Paupers (except honorably discharged United States soldiers and sailors), persons excused from paying taxes at their own request.
N. Jersey *	Citizen of the United States or alien who has declared intention thirty days prior to election.	1 yr.	5 mos.	....	....	Idiots, insane, paupers, persons convicted of crimes (unless pardoned) which exclude them from being witnesses.
New York *	Citizen who shall have been a citizen for ninety days.	1 yr.	4 mos.	30 dys.	30 dys.	Convicted of bribery or any infamous crime, Indians under tribal relations.
N. Car.	Citizen of the United States.	1 yr.	90 dys.	....	....	Convicted of felony or other infamous crime, idiots, lunatics.
N. Dak *	Citizen of the United States, alien who has declared intention one year, and civilized Indian † (e).	1 yr.	6 mos.	....	90 dys.	Under guardianship, persons <i>non compos mentis</i> , or convicted of felony and treason, unless restored to civil rights.
Ohio *	Citizen of the United States (e).	1 yr.	30 dys.	20 dys.	20 dys.	Felony until pardoned, idiots, insane, United States soldiers and sailors.
Oregon *	Citizen of the United States or alien who has declared intention one year preceding election.	6 mos.	none	none	none	Idiots, insane, convicted of felony, United States soldiers and sailors, Chinese.
Penn.*	Citizen of the United States at least one month, and if 22 years old or more must have paid tax within two years.	1 yr. ‡	....	....	2 mos.	Convicted of some offense whereby right of suffrage is forfeited, non-tax-payers.

STATES.	REQUIREMENTS AS TO CITIZENSHIP.	Previous Residence Required.				PERSONS EXCLUDED FROM SUFFRAGE.
		In State.	In County.	In Town.	In Precinct.	
Rhode I.*	Citizen of the United States.	2 yrs.	.....	6 mos.	.....	Paupers, lunatics, persons <i>non compos mentis</i> , convicted of bribery or infamous crime until restored to right to vote, under guardianship.
So. Car.*	Citizen of the United States.	2 yrs.	1 yr.	4 mos.	4 mos.	Convicted of treason, murder, or other infamous crime, paupers, insane, idiots.
So. Dak.*	Citizen of the United States or alien who has declared intention.	6 mos.	§ 30 dys.	10 dys.	10 dys.	Under guardianship, idiots, insane, convicted of treason, or felony, unless pardoned, soldiers, marines.
Tenn.*	Citizen of the United States who has paid poll tax of preceding year.	1 yr.	6 mos.	.....	.....	Convicted of bribery or other infamous offense.
Texas*	Citizen of the United States or alien who has declared intention 6 mos. prior to election.	1 yr.	6 mos.	.....	(c)	Idiots, lunatics, paupers, convicted of felony, United States soldiers and seamen.
Utah*	Citizen, male and female.	1 yr.	4 mos.	.....	60 dys.	Idiots, insane, convicted of treason or violation of election laws.
Vermont*	Citizen of the United States.	1 yr.	.....	3 m.(d)	30 dys.	Unpardoned convicts and deserters from United States military or naval service during Civil War.
Virginia*	Citizen of the United States.	1 yr.	3 mos.	3 mos.	30 dys.	Idiots, lunatics, convicted of bribery at election, embezzlement of public funds, treason, felony and petty larceny, duelists and abettors, unless pardoned by Legislature.
Wash'n*	Citizen of the United States.	1 yr.	90 dys.	30 dys.	30 dys.	Indians, not taxed, idiots, insane, persons convicted of infamous crimes.

STATES.	REQUIREMENTS AS TO CITIZENSHIP.	Previous Residence Required.				PERSONS EXCLUDED FROM SUFFRAGE.
		In State.	In County.	In Town.	In Precinct.	
West Va.*	Citizen of the State.	1 yr.	60 dys.		(c)	Paupers, idiots, lunatics, convicted of treason, felony, or bribery, at elections.
Wis.*	Citizen of the United States or alien who has declared intention.	1 yr.		10 dys.	10 dys.	Insane, under guardianship, convicted of treason or felony, unless pardoned.
Wyom.*	Citizen of the United States, male and female.	1 yr.	60 dys.	10 dys.	10 dys.	Idiots, insane, persons convicted of infamous crimes unless restored to civil rights, unable to read State Constitution in English language.

REQUIREMENTS REGARDING THE REGISTRATION OF VOTERS.

The registration of voters is required in the States of Alabama, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nevada, New Hampshire, New Jersey, North Carolina, Pennsylvania, South Carolina, Utah, Vermont, Virginia, and Wyoming, and the Territories of Arizona and New Mexico.

In Iowa in cities of over 2000 inhabitants.

In Kentucky and Ohio registration is required in cities, in Kansas and Nebraska in cities of the first and second class, in North Dakota in cities and villages of 1000 inhabitants and over, in Ohio in cities of not less than 9000 inhabitants, in Maine in all cities and in towns having 500 or more voters, in South Dakota in cities and towns having over 1000 voters and in counties where registration has been adopted by popular vote, and Tennessee in all counties having 50,000 inhabitants and over.

In Missouri it is required in Kansas City and St. Louis, and in Wisconsin in cities having 3000 inhabitants and over. In New York it is required at all elections except at town meetings. In Rhode Island non-taxpayers are required to register yearly before December 31. In Texas in cities of 10,000 inhabitants or over.

In the State of Washington all voters in all cities and towns and all voting precincts having a voting population of 250 or more must be registered.

The registration of voters is not required in the State of Oregon. It is prohibited in Arkansas and West Virginia by constitutional provision.*

* Above table compiled from The World Almanac (1901) and from other sources.

APPENDIX E.

LIST OF THE PRESIDENTS AND VICE-PRESIDENTS.

No.	President.	State.	Born.	Died.	Term of Office.	By whom elected.	Vice-President.
1	George Washington . . .	Virginia . . .	1732	1799	Two terms ; 1789-1797	Whole people .	John Adams.
2	John Adams . . .	Massachusetts	1735	1826	One term ; 1797-1801	Federalists .	Thomas Jefferson.
3	Thomas Jefferson . . .	Virginia . . .	1743	1826	Two terms ; 1801-1809	Democratic-Republicans .	Aaron Burr.
4	James Madison . . .	Virginia . . .	1751	1836	Two terms ; 1809-1817	Democratic-Republicans .	George Clinton.
5	James Monroe . . .	Virginia . . .	1758	1831	Two terms ; 1817-1825	Democratic-Republicans .	George Clinton.
6	John Quincy Adams	Massachusetts	1767	1848	One term ; 1825-1829	House of Rep.	Elbridge Gerry.
7	Andrew Jackson . . .	Tennessee .	1767	1845	Two terms ; 1829-1837	Democrats .	Daniel D. Tompkins.
8	Martin Van Buren . . .	New York . .	1782	1862	One term ; 1837-1841	Democrats .	John C. Calhoun.
9	William H. Harrison	Ohio . . .	1773	1841	One month ; 1841	Whigs . . .	John C. Calhoun.
10	John Tyler . . .	Virginia . . .	1790	1862	8 years and 11 months ; 1841-1845	Whigs . . .	Martin Van Buren.
11	James K. Polk . . .	Tennessee .	1795	1849	One term ; 1845-1849	Democrats .	Richard M. Johnson.
12	Zachary Taylor . . .	Louisiana . .	1784	1850	1 year and 4 months ; 1849	Whigs . . .	John Tyler.
13	Millard Fillmore . . .	New York . .	1800	1874	2 years and 8 months ; 1849-1850	Whigs . . .	George M. Dallas.
14	Franklin Pierce . . .	N. Hampshire.	1804	1869	One term ; 1853-1857	Democrats .	Millard Fillmore.
15	James Buchanan . . .	Pennsylvania	1791	1868	One term ; 1857-1861	Democrats .	William R. King.
16	Abraham Lincoln . . .	Illinois . . .	1809	1865	One term and 6 weeks ; 1861-1865	Republicans .	J. C. Breckinridge.
17	Andrew Johnson . . .	Tennessee .	1808	1875	8 years and 10½ months ; 1865-1869	Republicans .	Hannibal Hamlin.
18	Ulysses S. Grant . . .	Illinois . . .	1822	1885	Two terms ; 1869-1877	Republicans .	Andrew Johnson.
19	Rutherford B. Hayes	Ohio . . .	1822	1893	One term ; 1877-1881	Republicans .	Schuyler Colfax.
20	James A. Garfield . . .	Ohio . . .	1831	1881	Six months and 15 days	Republicans .	Henry Wilson.
21	Chester A. Arthur . . .	New York . .	1830	1886	3 years, 5 mos., 15 days ; 1881-1885	Republicans .	William A. Wheeler.
22	Grover Cleveland . . .	New York . .	1837	...	One term ; 1885-1889	Republicans .	Chester A. Arthur.
23	Benjamin Harrison . .	Indiana . . .	1833	1901	One term ; 1889-1893	Democrats .	Thomas A. Hendricks.
24	Grover Cleveland . . .	New York . .	1837	...	1893- . . .	Democrats .	Levi P. Morton.
25	William McKinley . . .	Ohio . . .	1843	...	Two terms ; 1896- . . .	Republicans .	Adlai E. Stevenson.

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